

Royal Police Ordinances in Early Modern Sweden

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Royal Police Ordinances in Early Modern Sweden

The Emergence of Voluntaristic
Understanding of Law

By

Toomas Kotkas



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To Kaarlo, Kersti and Iines

CONTENTS

Acknowledgements	xi
Abbreviations	xiii
 I Introduction	 1
Research on Early Modern Police	1
Aims and Objectives of the Study	8
Research Material and Method	12
 II Legislative Theory and Police in Early Modern Sweden	 21
Development in Germany and France	21
Sweden and European Examples	26
<i>Konungastyrelsen</i>	26
Peder Månsson's <i>Barnabok</i>	29
Johan Skytte's <i>Een kort Vnderwijsning</i>	31
 III Royal Police Ordinances between 1523 and 1611: Enforcement of Medieval Law	 35
Swedish Society during the Sixteenth Century	35
Fields of Regulation	40
Societal and Social Order, Religion	40
Public Safety and Order	48
Poor Relief, Public Health, Education and Schooling, Culture	55
Economic System and Professions	59
Land Division, Public Construction, Real Estate, and Public Institutions	68
Justification of Ordinances	71
Political Arguments: 'Benefit of the Realm and its Inhabitants' and 'Good Order'	71
Religious Arguments: 'The Wrath of God'	75
Logic of Ordinances	79
Impetus for Issuing Ordinances	79
Addressees	82
Recurrence of Ordinances	84
Police Ordinances and Medieval Law	86
Summary	91

IV	Royal Police Ordinances between 1612 and 1718: Making of	
	New Law	95
	Swedish Society during the Seventeenth Century	95
	Fields of Regulation	99
	Societal and Social Order, Religion	100
	Public Safety and Order	114
	Poor Relief, Public Health, Education and Schooling,	
	Culture	124
	Economic System and Professions	131
	Land Division, Public Construction, Real Estate, and Public	
	Institutions	150
	Justification of Ordinances	155
	Political Arguments: 'Benefit of the Realm and its	
	Inhabitants' and 'Good Order'	155
	Religious Arguments: 'God's Blessing'	161
	Legal Arguments: Other Legal Sources and Foreign Law	164
	Economic Arguments: 'Flux of Commerce'	167
	Logic of Ordinances	174
	Impetus for Issuing Ordinances and Addressees	174
	Police Ordinances and Medieval Law	176
	New Rhetoric: 'Intentions' and 'Effects'	181
	Summary	184
V	Scientification of Police: The End of the Broad Conception	
	of Police	189
	Police Science in Germany	189
	Antecedents of Police Science in Sweden	191
	Laurentius Petri's <i>Œconomia Christiana</i>	192
	Per Brahe's <i>Oeconomia</i>	194
	Schering Rosenhane's <i>Oeconomia</i>	196
	Anders Bachmanson's <i>Arcana Oeconomiae et Commercii</i>	197
	Swedish Eighteenth-Century Treatises on Police Science	199
	Nicolas Delamare's <i>Traité de la Police</i> as a source of	
	inspiration	199
	Christian König's <i>Lagfarenheten i Politie-mål</i>	201
	Anders Berch's <i>Inledning till Almänna Hushållningen</i>	204
	Summary	206

VI Conclusions 209

Sources and Literature 221

Index of Names and Subjects 231

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ABBREVIATIONS

B	Byggningsbalken (chapter in medieval law codes concerning land division, road building, usufruct, hunting, fire safety, and so on)
G	Giftermålsbalken (chapter in medieval law codes concerning marriage)
Kg	Konungsbalken (chapter in medieval law codes concerning election of the king, rights and duties of the king, and so on)
Kk	Kyrkobalken (chapter in medieval law codes concerning the church and clergy)
R	Rättegångsbalken (chapter in medieval law codes concerning judges, trials, swearing oaths, and so on)
Tj	Tjuvabalken (chapter in medieval law codes concerning thefts)
UL	Upplandslagen (medieval law code of the province of Uppland)
ÖgL	Östgötalagen (medieval law code of the province of Östergötland)

CHAPTER ONE

INTRODUCTION

RESEARCH ON EARLY MODERN POLICE

Police can be claimed to have been one of the most important governmental and administrative themes in early modern states and societies in Continental Europe. In contrast to our time, in the early modern vocabulary the term ‘police’ (Swedish *politie*, Germ. *Policey*, Fr. *police*) did not primarily refer to the authorities responsible for the maintenance of public safety and order. Instead, the term had many different and ambivalent, although interrelated, conceptual meanings. However, two main meanings can be discerned. Firstly, the term police was used to describe a state of affairs that the authorities aspired and strove for, i.e., police as a *material objective*. In this meaning the term often appears in early modern sources in the form ‘good police’ (Swedish *god politie*, Germ. *gute Policey*, Fr. *bonne police*). Good police was also often used as a synonym for ‘good order’ (Swedish *ordning*, Germ. *Ordnung*, Fr. *ordre*); order being understood in the widest possible sense, i.e., societal order including the social, economic, moral and religious spheres. Police as a state of affairs thus signified good societal order. Secondly, the term police was frequently used to signify *governmental action* through which maintenance of this societal order was to be achieved. In this regard, police was often used synonymously with the word ‘regimen’ (Swedish *regemente*, *regerning*; Germ. *Regiment*, *Regierung*; Fr. *regime*).¹

¹ Regarding the history of the concept of police in early modern Sweden, see Erik Sjöholm, *Om politimakten och dess begränsningar* (Stockholm: P. A. Norstedt & Söner Förlag, 1964), 16–43; Pär Frohnert, “Policeybegriff und Policeygesetzgebung im frühmodernen Schweden,” in *Policey im Europa der Frühen Neuzeit*, ed. Michael Stolleis (Frankfurt am Main: Vittorio Klostermann, 1996); Toomas Kotkas, “Politia-käsitten historiasta Suomesta,” in *Demokraattisen oikeuden ehdot*, ed. Samuli Hurri (Helsinki: Tutkijaliitto, 2008). Regarding early modern Germany, see Reiner Schulze, *Policey und Gesetzgebungslehre im 18. Jahrhundert* (Berlin: Duncker & Humblot, 1982), 14–16; Hans Maier, *Die ältere deutsche Staats- und Verwaltungslehre* (München: Deutscher Taschenbuch Verlag, 1986), 92ff; Michael Stolleis, *Geschichte des öffentlichen Rechts in Deutschland: Erster Band 1600–1800* (München: Verlag C. H. Beck, 1988), 369–371; Thomas Simon, “Gute Policey”: *Ordnungsleitbilder und Zielvorstellungen politischen Handels in der Frühen Neuzeit* (Frankfurt am Main: Vittorio Klostermann, 2004), 111–120; Karl Härter, “Security and ‘Gute Policey’ in early Modern Europe: Concepts, Laws, and Instruments,” *Historical Social Research* 35 (2010). Regarding early

In addition to these main uses, the term police was used in other contexts as well. In Germany the term *Policeyordnungen* came to denote imperial and territorial police codes which included a vast body of provisions concerning the maintenance of good police. For instance the first imperial police order that was issued in 1530 came to be known during the seventeenth century as the *Reichspolizeiordnung*.² In addition to these more or less encompassing police codes, an endless volume of individual police ordinances were issued in the early modern period.³ Furthermore, the term police also occurred in the names of many authorities that were established in order to take care of the task that fell under the scope of good police. In France, for instance, a new authority, *lieutenant general de police*, was established for the city of Paris in 1667. Some thirty years later, in 1699, the same authority was to be established in every French city under royal jurisdiction.⁴

Both in the German *Reich* and territories as well as in France the concept of police was derived from the Greek word *politeia*. With Aristotle the word *politeia* primarily stood for a 'state form'.⁵ Ancient realms and city states had different state forms such as democracy, oligarchy, and autocracy. In early modern continental political parlance the term received new meanings as indicated above. However, in early modern England the term police never assumed such a manifold meaning as on the Continent. Although some sixteenth-century English political theorists such as Thomas Starkey (1495–1538) did in fact use the term 'pollycy' in much the same wide meaning as it was used in the Continent, this usage never broke through. Instead, the Aristotelian *politeia* developed

modern France, see Paolo Napoli, *Naissance de la police modern: Pouvoir, normes, société* (Paris: Éditions La Découverte, 2003), 20–63; Andrea Iseli, "Bonne Police": *Frühneuzeitliches Verständnis von der guten Ordnung eines Staates in Frankreich* (Epfendorf/Neckar: bibliotheca academica Verlag, 2003), 21–68; Blaise Kropf, "Der Begriff aus der politischen Theorie – das Konzept aus der administrativen Praxis: Zum Entstehen der police im frühneuzeitlichen Frankreich," in *Gute Policy als Politik im 16. Jahrhundert: Die Entstehung des öffentlichen Raumes in Oberdeutschland*, ed. Peter Blickle, Peter Kissling, and Heinrich Richard Schmidt (Frankfurt am Main: Vittorio Klosterman, 2003), 503–512.

² Maier, *Staats- und Verwaltungslehre*, 95 fn. 22. The whole name of the 1530 order was *Römisch-Kayserlicher Ordnung und Reformation guter Policey, im Heiligen Römischen Reich zu Augspurg anno 1530 auffgerichtet*.

³ See e.g. Karl Härter, "Edition, Repertorium oder Datenbank? Die Erschließung frühneuzeitlicher Policeygesetzgebung durch das Repertorium der Policeuordnungen," in *Vom Nutzen des Edierens: Akten des internationalen Kongresses zum 150-jährigen Bestehn des Instituts für Österreichische Geschichtsforschung Wien, 3.–5. Juni 2004*, ed. Brigitte Merta, Andrea Sommerlechner and Herwig Weigl (Wien – München: R. Oldenbourg Verlag, 2005).

⁴ Iseli, "Bonne Police", 94ff.

⁵ See e.g. Maier, *Staats- und Verwaltungslehre*, 99.

into two distinct and more specific concepts, namely 'policy' (politics, strategy, goal-setting) and 'police' (control, enforcement).⁶ This does not mean, of course, that early modern England would not have experienced such a phenomenon as the steering of society through royal ordinances and their proliferation. One only needs to glance at royal proclamations issued during the Tudor and Stuart reigns in order to realise that royal proclamations were increasingly used as a means of regulating early modern English society.⁷ However, English early modern proclamations were never thematised under the term 'police'.

If the conceptual scope of 'police' was wide in early modern continental political parlance, so also was its material scope. Police ordinances were given in order to govern and control such areas and phenomena of early modern societal life as church services and keeping the Sabbath, luxury and extravagance, prostitution, gambling, festivities, public safety, vagrancy, begging and poor relief, public health and sanitation, road and waterway building and maintenance, construction, censorship and printing, education and schooling, agriculture, guilds and occupations, handicrafts, commerce, monetary and financial institutions, and others.⁸

From the 1990s onwards, research on early modern police in Europe has increased to a remarkable degree. One of the key instigators for this development has been a research project called *Policeyordnungen der frühen Neuzeit* that was started in 1992 at the *Max-Planck-Institut für europäische Rechtsgeschichte*. As a result, several registers of early modern police ordinances from different regions have been published. Each register (*Repertorium*) includes a catalogue of all the police ordinances from a particular region or regions covering a time span roughly from the Late Middle Ages until the end of the eighteenth century.⁹ The purpose

⁶ Robert von Friedenburg, "Die Ordnungsgesetzgebung Englands in der Frühen Neuzeit," in *Policey im Europa der Frühen Neuzeit*, ed. Michael Stolleis (Frankfurt am Main: Vittorio Klostermann, 1996), 579.

⁷ On the nature of Tudor proclamations, see R. W. Heinze, *The Proclamations of the Tudor Kings* (New York: Cambridge University Press, 1976); Frederic A. Youngs, *The Proclamations of the Tudor Queens* (New York: Cambridge University Press, 1976).

⁸ Härter, "Edition," 138–140; Iseli, "Bonne Police", 167–176.

⁹ Until the end of 2011, the following *Repertoria der Policeyordnungen der Frühen Neuzeit* had been published: Band 1: *Deutsches Reich und geistliche Kurfürstentümer (Kurmainz, Kurköln, Kurtrier)* (1996), Band 2.1–2: *Brandenburg/Preußen mit Nebenterritorien Kleve-Mark, Magdeburg und Halberstadt* (1998), Band 3.1–2: *Wittelsbachische Territorien (Kurpfalz, Bayern, Pfalz-Neuburg, Pfalz-Sulzbach, Jülich-Berg, Pfalz-Zweibrücken)* (1999), Band 4: *Baden und Württemberg* (2001), Band 5: *Reichsstädte 1: Frankfurt am Main* (2004), Band 6.1–2: *Reichsstädte 2: Köln* (2005), Band 7.1–2: *Orte der Schweizer Eidgenossenschaft: Bern und Zürich* (2006), Band 8: *Reichsstädte 3: Ulm* (2007), Band 9.1–2: *Danmark og Slesvig-Holstein*

of these registers has been to facilitate further research on the history of police. The project also has its own publication series called *Studien zu Policy und Policywissenschaft* through which a number of studies have been published.¹⁰ Studies on early modern police have, of course, been published in other series as well.¹¹

Research has been done on various aspects of early modern police. For a long while, the history of police was studied from the viewpoint of the history of ideas and history of disciplines. A good example of this research tradition is Hans Maier's pioneering work, *Die ältere deutsche Staat- und Verwaltungslehre*, in which he studied the formation and development of a German peculiarity, namely 'police science' (*Polizeiwissenschaft*).¹² Reiner Schulze has studied the relationship between police and the 'doctrine of legislation' (*Gesetzgebungslehre*).¹³ Michael Stolleis has discussed the history of *Policy* and *Policywissenschaft* in the context of the birth of public law in early modern Germany.¹⁴ More recently, Thomas Simon has scrutinized police in the framework of major paradigmatic changes in the history of early modern political thinking in Germany.¹⁵

Another important line of research in the study of early modern police has been actual 'police legislation' (*Policeygesetzgebung*), i.e., both the more encompassing police codes such as the *Reichspolizeiordnung* as well as individual police ordinances. For instance, as long ago as 1983, Marc Raeff published a book based on the study of the *Landes-* and *Polizeiordnungen* in the German territories. Raeff's idea was to use these codes as a window on the political ideals and practices of the early modern authorities.¹⁶

(2008). Band 10: *Reichsstädte 4: Speyer, Wetzlar, Worms* (2010). In addition, Matthias Weber has edited a book on three *Reichspolizeiordnungen* from 1530, 1548 and 1577, see Mathias Weber, ed., *Die Reichspolizeiordnungen von 1530, 1548 und 1577: Historische Einführung und Edition* (Frankfurt am Main: Vittorio Klosterman, 2002).

¹⁰ See e.g. Achim Landwehr, *Policy im Alltag. Die Implementation frühneuzeitlicher Policyordnungen in Leonberg* (Frankfurt am Main: Vittorio Klosterman, 2000); Gerhard Sälter, *Polizei und Soziale Ordnung in Paris: Zur Entstehung und Durchsetzung von Normen im städtischen Alltag des Ancien Régime (1697–1715)* (Frankfurt am Main: Vittorio Klosterman, 2004).

¹¹ See e.g. Iseli, "Bonne Police"; Simon, "Gute Policy"; Karl Härter, *Policy und Strafrecht in Kurmainz: Gesetzgebung, Normdurchsetzung und Sozialkontrolle im frühneuzeitlichen Territorialstaat* (Frankfurt am Main: Vittorio Klosterman, 2005).

¹² Maier, *Staats- und Verwaltungslehre* (the 1st edition was published in 1966).

¹³ Schulze, *Policy und Gesetzgebungslehre*.

¹⁴ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 334–393.

¹⁵ Simon, "Gute Policy".

¹⁶ Marc Raeff, *The Well-Ordered Police State: Social and Institutional Change through Law in the Germanies and Russia 1600–1800* (New Haven and London: Yale University Press, 1983).

However, it has later been argued that concentrating solely on police legislation runs the risk of jumping too readily into generalizations about early modern police. In order to learn how police legislation ‘really worked’, one would need to study the implementation of police ordinances on a territorial level.¹⁷ Indeed, the third and most recent trend within research of early modern police has concentrated on the enforcement and implementation of police legislation on a regional and territorial level.¹⁸

What, then, are the different meanings given to early modern police in the recent research literature? How has the phenomenon been understood in the historiography on early modern police? To begin with, it seems clear that the emergence of early modern police – both as a theoretical theme as well as practical institutions (police ordinances and police authorities) – was closely tied up with the strengthening of central authorities and the gradual formation of modern administrative states in Europe – territorial states in Germany and a unified state in France. This development has been described by such general terms as centralization, professionalization, secularization, differentiation, scientification, and rationalization. Different practices concerning, for instance, sanitation, street maintenance, and poor relief had of course already been existent in the medieval European towns. Nevertheless, through royal and princely intervention these practices became more uniform and were placed under the same general theme, i.e., the theme of good police. However, the centralization of police did not mean that the role of local authorities would have been extinguished altogether. Local authorities in towns and in the countryside were still important actors in the enforcement of police ordinances.¹⁹

Secondly, it has been widely accepted that *Policywissenschaft* and *Policeyordnungen* should no longer be seen in the context of the ‘police

¹⁷ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 371; André Holenstein, “Die Umstände der Normen – die Normen die Umstände: Policeyordnungen im kommunikativen Handeln vor Verwaltung und lokaler Gesellschaft im ancien Régime,” in *Policey und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 8; Achim Landwehr, “Policey vor Ort: Die Implementation von Policeyordnungen in der ländlichen Gesellschaft der Frühen Neuzeit,” in *Policey und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 48–52; Härter, *Policey*, 12–13.

¹⁸ See e.g. Landwehr, *Policey*; André Holenstein, “Gute Policey” und lokale Gesellschaft im Staat des Ancien Régime: Das Fallbeispiel der Markgrafschaft Baden(-Durlach) (Tübingen: Bibliotheca Academica, 2003); Iseli, “Bonne Police”; Sälter, *Polizei und Soziale Ordnung in Paris*; Härter, *Policey*.

¹⁹ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 334–338; Iseli, “Bonne Police”, 316–340; Kropf, “Begriff”; Härter, *Policey*, 1123–1158.

state' (*Polizeistaat*). The negative concept of police state is only a nineteenth-century invention which has little to do with the early modern reality and whose purpose was to underline the difference between the *Ancien Régime* and the new ideals of the modern *Rechtsstaat*. Early modern police had a number of positive tasks to attend to, such as taking care of matters relating to public health. Regulation through police legislation also had its legal and real restrictions.²⁰ Furthermore, recent studies emphasize the interaction between the authorities and the people in police matters. Police regulation and police jurisdiction were not merely something that took place 'from above' (*von oben*) but instead subjects at the local level knew how to take advantage of them too. A constant dialogue existed between the authorities and their subjects.²¹ These views have also led to challenging the antecedent thesis about *soziale Disziplinierung* put forward by Gerhard Oestreich.²²

Thirdly, academics do not, however, seem to agree on the role that 'police legislation' (*Policeygesetzgebung*) played in the making of modern societies and modernity in general. An affirmative account has been put forward by Marc Raeff in his above-mentioned work. He claims that police ordinances were

pragmatic statements, orders, or counsels designed to have an immediate and direct effect in reshaping patterns of public behaviour and social action. [...] The legislator's leadership role became increasingly important, beginning a process that eventually transformed the political as well as social and cultural life in Europe.²³

By this Raeff means "the making of the modern world".²⁴

Later, more reserved and sceptical, interpretations have been presented. It has been argued that although police ordinances were given in order to reshape political, economic and social structures and ways of acting, it is

²⁰ Maier, *Staats- und Verwaltungslehre*, 5–13; Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 392–393; Napoli, *Naissance de la police modern*, 16–18.

²¹ See e.g. Iseli, "Bonne Police", 312–315, 337–340; Härter, *Policey*, 5–12, 1153–1158. Both Iseli and Härter use the German term '*Justiznutzung*' introduced by Martin Dinges to characterize the ways that people use to take advantage of the judicial system in order to achieve various goals. See Martin Dinges "Justiznutzung als soziale Kontrolle in der frühen Neuzeit," in *Kriminalitätsgeschichte: Beiträge zur Sozial- und Kulturgeschichte der Vormoderne*, ed. Adreas Blauert and Gerd Schwerhoff (Konstanz: Universitätsverlag Konstanz, 2000).

²² See Gerhard Oestreich, *Geist und Gestalt des frühmodernen Staates* (Berlin: Duncker und Humblot, 1969), 179–197.

²³ Raeff, *Well-Ordered Police State*, 41–42.

²⁴ *Ibid.*, 1.

undeniable that a remarkable part of all police legislation was conservative and reactionary in nature. Hence, its goal was more likely to preserve the 'society of the estates' (*Ständegesellschaft*) and maintain the *status quo* rather than to modernize early modern societies. The term 'modernization' should perhaps primarily be reserved to a description of the political and economic liberalism of the nineteenth century.²⁵ In the early modern period, police was still to a large extent defined through descent and privileges. For instance, offices were not yet defined through particular tasks but more through the qualities of the holder of the office.²⁶

It is certainly true that eighteenth- and nineteenth-century liberal thinking – both political and economic – questioned the meaningfulness of police regulation in many respects. Judicial and legislative powers of police authorities came to be regarded as a problem when the ideas of the *Rechtsstaat* began to gain ground. As an indication of this, in Germany *Policeywissenschaft* transformed, among others, into study of administrative law.²⁷ Furthermore, the rationality of regulation was contested in many areas of police. For instance, during the latter half of the eighteenth century, in France 'grain police' (*police des grains*), i.e., restrictions on prices and sale of grain already came to be seen as counter-productive and the grain trade was therefore liberated. In the course of the eighteenth century, the functions of police in France became more restricted and the concept of police started to assume the meaning it has today, i.e., police as the authority responsible for keeping public safety and order.²⁸

Even though police underwent extensive changes during the nineteenth century, the continuums between the early modern and modern periods have also been emphasized in the research literature. Paolo Napoli has argued that the French Revolution did not bring about any great changes, for instance, in the area of 'health police' (*police de la santé*). The question of public health stayed very much on the agenda of the authorities, not least because of the problems caused by industrialization and urbanization. Many of the practical measures of the health police of the *Ancien*

²⁵ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 371. Despite his general claim, Raeff does admit that police legislation was paradoxical in many ways. "[O]n the one hand, the police ordinances insisted on social harmony and the stability of prevailing distinctions between classes and orders of society; on the other, they advocated dynamic drive and display of productive entrepreneurial energy on the part of all individuals capable of so doing." Raeff, *Well-Ordered Police State*, 174.

²⁶ Iseli, "Bonne Police", 361–363.

²⁷ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 383–392.

²⁸ Iseli, "Bonne Police", 352–258.

Régime continued to be used after the revolution. Napoli claims that the ability of police regulation to adapt itself to new circumstances was the reason for its survival. However, police should not simply be seen as something that merely observed reality and tried to impose pre-existing order on it. According to Napoli, police should instead be perceived as a way to constitute reality as an object of a particular governmental rationality.²⁹

As this study will show, police legislation was in fact a vehicle for both conserving *and* modernizing early modern 'estate societies'. On the one hand, part of police legislation helped to construct and maintain the *Ständegesellschaft*; various ordinances on trade guilds, for instance, are a good example of this. On the other hand, the issuing of police ordinances also entailed the gradual crumbling of a society based on the division between different estates. For instance, ordinances were issued in the form of privileges to various trading companies. Anybody (at least in principle) could invest in these companies. It can thus be argued that these particular ordinances already carried the seeds of economic (and political) liberalism. Police ordinances should therefore best be understood as 'empty legislation' that could be filled with many kinds of rationalities and contents. As Hans Maier already pointed out, early modern police ordinances paved the way for the modern notion of law according to which "all law is but a product of legislative action", i.e., positive law.³⁰

AIMS AND OBJECTIVES OF THE STUDY

In order to formulate the research questions of this study, let us begin with a couple of citations from the Swedish Law Code of 1734. The first is from the Royal Confirmation given by King Fredrik I to the Code.

Furthermore, We have herewith seen fit mercifully to announce and to let it be known [...] that this Code does not include matters that belong to the special Tribunals, nor matters that are treated in *Oeconomie* and *Politie* Ordinances which are more prone to change due to the circumstances at any given time.³¹

²⁹ Napoli, *Naissance de la police modern*, 9, 287–301. Napoli draws largely on Foucault's writings on governmentality. See e.g. Michel Foucault, *Sécurité, Territoire, Population: Cours au Collège de France 1977–1978* (Paris: Seuil/Gallimard, 2004), 119–138. As part of his governmentality analytics Foucault also wrote on early modern police, see Foucault, *Sécurité*, 319–370.

³⁰ Maier, *Staats- und Verwaltungslehre*, 89.

³¹ Torkel Nordström, ed., *Sveriges Rikes Lag. Gillad och Antagen på Riksdagen år 1734. Till 250-årsdagen av lagens tillkomst* (Lund: Institutet för rättshistorisk forskning grundat

This passage is interesting because it refers to an early modern doctrinal division of legal norms. Firstly, the passage suggests that there were norms that earned a place in the Law Code due to their unchanging nature. In fact, the purpose of the 1734 Code was to give the people of Sweden a general code that would on the one hand respond to the needs of contemporary society and, on the other hand, endure the strain of time. The Code was influenced, among others, by the natural law thinking of Samuel Pufendorf.³² Secondly, however, there also existed norms that were “more prone to change” and therefore excluded from the Code. Certain areas of societal life, i.e., the economy and police, needed more frequent and more dynamic regulation than others.

As already mentioned above, early modern police legislation paved the way for legal positivistic thinking. Police ordinances gradually eroded the old medieval notion of law as something unchangeable and eternal.³³ The first signs of a ‘voluntaristic understanding of legal norms’ (*voluntaristisches Gesetzesverständnis*) can be traced back to the scholasticism of the High Middle Ages.³⁴ Later on, during the sixteenth century, in one of the early forms of German ‘police literature’, the so called *Regimentstraktate*, a terminological division was made between *Recht* and *Gesetz*, on the one hand, and *Statuta*, *Ordnung*, *Gebot* and *Edikt*, on the other. The two first-mentioned terms referred to law as something permanent and based on custom (*richtiges Recht*), whereas the latter referred to norms given by political authorities. The basis for this terminological use was in fact provided by early modern police legislation itself; individual police ordinances were mainly entitled ‘statutes’, ‘ordinances’, ‘orders’, ‘edicts’, and so on.³⁵

av Gustav och Carin Olin, 1984), Kongl. Stadfästelse. “*Therjemte hafve Vi ock godtfunnit, at härmed i nåder kungiöra och förstå låta [...] At thenna Lag ej innehåller thet, som til särskildt förordnade Domsäten hörer, eller hvad Oeconomie och Politie Förordningar angår, hvilka efter förefallande omständigheter finnas mera förändring vara underkastade.*”

³² On the emergence of the Swedish Law Code of 1734, see Stig Jägerskiöld, introduction to *Sveriges Rikes Lag: Gillad och Antagen på Riksdagen år 1734. Till 250-årsdagen av lagens tillkomst* (Lund: Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin, 1984). In Denmark, too, police ordinances were left out from the Danish Law Code of 1683 because of their changing nature. See Ditlev Tamm, “Gute Sitte und Ordnung: Zur Entwicklung und Funktion der Polizeigesetzgebung in Dänemark,” in *Policey im Europa der Frühen Neuzeit*, ed. Michael Stolleis (Frankfurt am Main: Vittorio Klostermann, 1996), 524–525.

³³ Maier, *Staats- und Verwaltungslehre*, 87–91.

³⁴ Simon, “Gute Policy”, 75–89.

³⁵ *Ibid.*, 173–181.

The second citation is from the Code's main section that encompassed provisions on procedural law (*Rättegångs Balk*).

Cases that concern the general household of the Realm, the Crown's income of all types, as well as fault with someone's office or service, be it high or low, shall be tried and judged by those to whom the King has entrusted the handling and supervision of these matters, as it has been stated in special statutes.³⁶

This passage points to another division that gained ground during the eighteenth century, namely the division between justice and police affairs. It was clearly stated in the 1734 Code that cases concerning the Swedish Realm's "general household" (*almänna hushållningen*), i.e., public administration, were to be left to those to whom the King had entrusted them, in other words, to the administrative authorities and not the ordinary courts.³⁷ Already from the sixteenth century onwards, in France and in Germany a doctrinal division was made between matters of justice and matters of police, although in practice these were often mixed because ordinary courts dealt with administrative police affairs and police authorities had judicial powers. However, this was not really seen as a problem since the ruler was the source of all power.³⁸ As the administration of early modern states expanded, the awareness of the differences between justice and police grew stronger. Around the middle of the eighteenth century, justice affairs were separated from police affairs. The reason for this demarcation had not yet so much to do with questions of legal protection of subjects and the requirement of *Rechtsstaat*, but rather with the desire to avoid jurisdictional conflicts. In the course of the nineteenth century, of course, the concern for individuals' legal protection strengthened and the field of police diminished into covering maintenance of public order. This development also marked the birth of administrative law. In many respects, the notion of 'police' was replaced with the term 'administration'.³⁹

³⁶ Nordström, *Sveriges Rikes Lag*, R 10:26. "The mål, som then almänna hushållningen i Riket, Kronones hvarjehanda ingälder, så ock the, som någons embete och tjenst, högre eller ringare, och fel ther i röra, pröfves och dömes af them, som Konungen vård och inseende ther öfver betrodth hafver, efter thy, som i särskilta stadgar thermo sägs."

³⁷ Rune Lavin, *Domstol och administrativ myndighet* (Stockholm: P. A. Norstedt & Söners förlag, 1972), 38–39.

³⁸ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 368; Napoli, *Naissance de la police modern*, 28–34; Iseli, "Bonne Police", 71–73; Simon, "Gute Policey", 117.

³⁹ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 370, 389; Iseli, "Bonne Police", 298–303; Simon, "Gute Policey", 355–368.

So, eighteenth-century Swedish doctrine drew a distinction between law and police legislation. In regard to law, Magnus IV Eriksson's Town Law from the 1350s and King Kristoffer's (of Bavaria) Law of the Land from 1442 were considered valid all the way until the coming into force of the 1734 Law Code. However, during the sixteenth and seventeenth centuries, a great number of royal police ordinances were issued by the Swedish monarchs. The object of this study is to find out to what extent the above mentioned doctrinal division between law and police ordinances corresponded to sixteenth and seventeenth-century legislative reality in Sweden. In other words, it will be asked: what was the relationship between medieval Swedish law codes and the royal police ordinances issued during the period 1523–1718? Three types of research questions will be posed.

1. What areas of societal life were regulated in early modern police ordinances? Were police ordinances used to regulate the same areas of societal life as were addressed in the medieval law codes?
2. How was the issuing of police ordinances legitimated in the ordinances themselves?
3. What was the logic of police ordinances?

Regarding the first question(s), police ordinances will be categorized according to the subject matter of regulation, i.e., whether they concerned religion, public safety, public health, construction, education, agriculture, guilds, commerce, monetary and financial institutions, and so on. It will be asked to what extent the provisions of police ordinances overlapped with the provisions of medieval law codes. It will also be discussed if police ordinances really dealt with matters that were "more prone to change". Secondly, attention will be paid to legitimation of police ordinances. What kinds of reasons were given for the issuing of police ordinances in individual ordinances? The findings will be examined against the wider background of the political ideals and terminology of the early modern period. The third research question touches the 'logic' of police ordinances. What gave stimulus to the issue of individual ordinances? Who were the ordinances addressed to? To what extent did police ordinances on the same subject matter recur? Did police ordinances include direct references to the medieval law codes?

In sum, the object of this study is royal police ordinances in early modern Sweden (1523–1718). Not much attention, if any at all, will be paid to implementation of ordinances. Nor are the administrative organs, i.e.,

police authorities, in the centre of focus. In other words, this study can be characterised as a study of early modern Swedish 'legislative doctrine' (*Gesetzgebungslehre*) as it transpires from royal police ordinances.

One final note must be made on terminology. Throughout the text the term 'police ordinances' will be used to refer to early modern royal ordinances. This terminological choice is somewhat anachronistic because the sixteenth- and seventeenth-century actors only rarely used the term 'police' when speaking of royal ordinances. As already indicated, only during the early eighteenth century did the royal ordinances of earlier centuries come to be known as police ordinances. However, the choice of terminology can be justified by two arguments. First, as the source material reveals, the term 'police' (Swedish *politie*) did occasionally appear already in sixteenth- and seventeenth-century ordinances. Secondly, this terminological choice expresses the intention of linking this study to current European research on early modern police.

RESEARCH MATERIAL AND METHOD

The empirical material of this study consists of four different compilations of royal police ordinances issued in Sweden during the early modern period. The first of these is a six volume compilation, *Samling utaf Kongl. Bref, Stadgar och Förordningar etc. angående Sweriges Rikes Commerce, Politie och Oeconomie*, made between 1747 and 1775 by a Swedish archivist and member of the Academy, Anders Anton von Stiernman (1695–1765).⁴⁰ The compilation covers the years between 1523 and 1718. Although the title of Stiernman's compilation suggests a division of ordinances into three categories, i.e., commerce, police and economy, in the compilation the ordinances are not classified accordingly. It must be noted here that this categorization was only an eighteenth-century product and reflects contemporary systematization of disciplines.⁴¹ During the sixteenth and seventeenth centuries, no such division was made in theory or in practice.

⁴⁰ And. Anton von Stiernman, comp., *Samling utaf Kongl. Bref, Stadgar och Förordningar &c. Angående Sweriges Rikes Commerce, Politie och Oeconomie Ut i Gemen, Ifrån Åhr 1523. in til närwarande tid. Uppå Hans Kongl. Maj:ts Nädigesta Befallning. Vol. I–VI* (Stockholm: 1747–1776). The sixth volume was published posthumously.

⁴¹ It has been argued that this division of police matters was probably first presented by Justus Christoph Dithmar (1677–1745), Professor of History, Natural Law and International Law in Frankfurt in his book entitled *Einleitung in die Oeconomische, Policei- und Kameral-Wissenschaften* of 1740. See Maier, *Staats- und Verwaltungslehre*, 148 fn. 220, 179 fn. 352.

Therefore all the ordinances in von Stiernman's compilation will generally be called police ordinances.

The second compilation was also made by von Stiernman. The compilation, called *Samling Utaf åtskilliga, tid efter annan, utkomna Kongliga Stadgar, Bref och Förordningar Angående Religion*, came out in 1744.⁴² As the name suggests, the compilation includes royal statutes, letters and ordinances given on matters concerning religion. It includes ordinances from the period 1563–1735.

The third compilation was made by Johan Schmedeman (1653–1713), who was an archivist, director of the postal service and Secretary of State. In 1706, he prepared a compilation called, *Kongl. Stadgar, Förordningar, Bref och Resolutioner, Ifrån Åhr 1528 in til 1701 Angående Justitiæ och Executions-Åhrender*.⁴³ As the title reveals, the compilation includes royal statutes, ordinances, letters and resolutions concerning the administration of justice and law enforcement for the years between 1528 and 1701.

Finally, the title of the fourth compilation is *Kongl. Stadgar, Förordningar, Privilegier och Resolutioner, angående Justitien och Hushållningen wid Bergwerken och Bruken*.⁴⁴ This was published in 1736 and encompasses royal ordinances given between 1347 and 1735 on the administration of justice and “householding” (*hushållning*), i.e., management of finances in mines and iron works. The compiler of this compilation is unknown.

As the titles of the compilations already indicate, early modern Swedish royal police ordinances bore different titles. An individual ordinance could have been entitled, among other things, *stadga, förordning, ordning, ordnantie, articular, patent, placat, mandat, mandatorial, octroy, edict, förbud, påbud, öpet bref, bref, privilegium*, and *taxa*. It is extremely difficult to try to classify the ordinances according to their title. Judging from the compilations used as the empirical material of this study, it is not always clear

⁴² Anders Anton von Stiernman, comp. *Samling Utaf åtskilliga, tid efter annan, utkomna Kongliga Stadgar, Bref och Förordningar Angående Religion*. Giord uppå Hans Kongl. Maj:ts nådigaste befallning (Stockholm: 1744).

⁴³ Joh. Schmedeman, comp. *Kongl. Stadgar, Förordningar, Bref och Resolutioner Ifrån Åhr 1528 in til 1701. Angående Justitiæ och Executions-Åhrender, Med een Förteckning på Stadgarne främst, och ett fulkommeligit Orda-Register efterst wid Wercket öfwer thes innehåld; Uppå Hans Kongl. May:tz allernådigste befaling och Privilegier, Til thet almänne bästas tjenst, och hwars och ens särskilte nytto, sålunda med fljît samlade, och genom Trycket i dagzliuset befordrade* (Stockholm: 1706).

⁴⁴ *Kongl. Stadgar, Förordningar, Privilegier och Resolutioner, angående Justitien och Hushållningen wid Bergwerken och Bruken: Med hwad som ther til hörer både inom och utom Bergslagerne uti Sweriges Rik, och ther under lydande Provincier*. Stockholm: 1736 [Bergwerken och Bruken].

if a royal ordinance had a title in the first place or if the title was given to the ordinances later by the compiler. For instance, some ordinances had a double title such as *ordning och stadga*,⁴⁵ *förordning och stadga*,⁴⁶ *placat och påbud*,⁴⁷ *placat och förbud*,⁴⁸ *placat och förordning*,⁴⁹ and *stadga och påbud*.⁵⁰ Furthermore, especially in the sixteenth century an ordinance was sometimes named in the text differently from the title. An ordinance entitled *förordning*, *patent*, *placat*, or *mandat* may have been referred to as *öpne bref* ('open letter') in the actual text of the ordinance.⁵¹

In this regard, the situation in early modern Sweden was parallel to the situation in contemporary Germany and France. In German territories the terminology assumed in the title and in the text of police ordinances varied extensively from one place to another and from one period to another. For this reason, a terminological categorization of the ordinances that would match their character and contents has been deemed impossible to make.⁵² In France, too, an individual ordinance may have been called by several different titles in its own preamble. In addition, many ordinances had double titles.⁵³ For these reasons, I will refrain from drawing any conclusions concerning the connection between the title and the contents of early modern Swedish police ordinances. Instead, police ordinances have been categorized according to the subject matter they were regulating.

In order for a police ordinance to have been included in this study, it has had to fulfil two conditions. First of all, the matter regulated in the ordinance must have fallen into one of the categories of various police matters listed below. In general, police matters touched upon issues

⁴⁵ See e.g. von Stiernman, *Commerce, Politie och Oeconomie . . . III*, 6.

⁴⁶ *Ibid.*, 18.

⁴⁷ *Ibid.*, 50, 384, 390.

⁴⁸ *Ibid.*, 70, 71, 191, 359, 895.

⁴⁹ *Ibid.*, 210, 339, 883.

⁵⁰ *Ibid.*, 228, 231, 242, 258, 272, 716, 756.

⁵¹ See e.g. *ibid.* I, 60, 300, 361, 367, 385, 402, 427, 432, 467.

⁵² Karl Härter and Michael Stolleis, introduction to *Repertorium der Polizeyordnungen der frühen Neuzeit, Band 1. Deutsches Reich und geistliche Kurfürstentümer (Kurmainz, Kurköln, Kurtrier)*, ed. Karl Härter (Frankfurt am Main: Vittorio Klosterman, 1996), 11–12; Heinz Mohnhaupt, "Potestas legislativa und Gesetzesbegriff im Angien Régime," *Ius Commune* IV (1972): 214–218.

⁵³ Albert Cremer, "Die Gesetzgebung im Frankreich des 16. und 17. Jahrhunderts," in *Gesetz und Gesetzgebung im Europa der Frühen Neuzeit. Zeitschrift für historische Forschung, Beiheft 22*, ed. Barbara Dölemeyer and Diethelm Klippel (Berlin: Duncker & Humblot, 1998), 40, 49.

related to public order.⁵⁴ For this reason, all provisions that have dealt with *ecclesiastical law* have been left out. For instance, provisions of the 1686 Church Law and Order (*kyrkio-lag och ordning*) that regulated liturgical issues have been left out. However, those provisions that were addressed to people and that concerned public order, such as provisions on keeping the Sabbath, were included in this study.⁵⁵ The practice of religion was thus not only an internal matter for the church or for an individual to decide. From the point of view of public order and government, i.e., police, it was important that people followed the prohibition against working on Sundays. In addition to church law, all *military law* ordinances such as the seventeenth-century War Articles (*krigz-articlar*) have also been excluded.⁵⁶ However, individual ordinances concerning policing the relationship between military troops and the civilian population have been included in this study. Again, ordinances with a *private law* character have also been left out. For instance, the 1667 Maritime Law (*siö-lag*) has been left out since it mostly regulated questions such as shipping, hiring of vessels, bottomry, and so on. Only the first chapter of the Maritime Law has been included because it regulated service and order on ships.⁵⁷

Secondly, to have been included in this study a police ordinance must have been addressed to people – be it all the inhabitants of the realm, of a province or of a town; a particular profession or a trade; or even an individual person. The decisive factor was that an ordinance was meant to come to the knowledge of the wider public. Therefore, all intra-administrative letters and regulations have been excluded. However, if an ordinance addressed to an administrative organ or authorities has included an order to bring the ordinance to people's attention, then it has been included in this study – for example, the 1699 Clarification (*förklaring*) to all governors, which stated that the king took all hangmen under royal protection and that the people were not to hold the profession dishonourable. The clarification ended with a note saying that “this clarification must be properly published and announced.”⁵⁸ Again, provisions of

⁵⁴ In this regard, I have followed the criteria assumed in the *Repertorium der Policeordnungen der frühen Neuzeit*. See Härter and Stolleis, introduction, 11–19.

⁵⁵ Schmedeman, *Justitiæ och Executions-Ähren*, 1021–1022.

⁵⁶ See e.g. *ibid.*, 192ff, 802ff, 895ff.

⁵⁷ von Stiernman, *Commerce, Politie och Oeconomie . . . III*, 513–584.

⁵⁸ Schmedeman, *Justitiæ och Executions-Ähren*, 1533. “[A]t I thenne Wår nådige Förklaring behörigen publicere och kungjøre.”

ordinances for the Royal Court (*hoffordning*) have also been included in the study in so far as they regulated matters concerning public order and security. For instance, the Court Articles of Karl XI from 1687 included provisions on how the members of the court were to behave both inside and outside the court.⁵⁹

Although all four compilations are explicitly entitled compilations of 'royal' ordinances, all of them also include a few ordinances issued by persons other than the reigning king or queen. For instance, on a few occasions ordinances were issued by the members of the Privy Council while the king was abroad. This was done, of course, with authorisation from the ruler.⁶⁰ They therefore fulfil the criteria of 'royal' ordinances. In addition, some ordinances were issued by other members of the 'royal family' such as Duke Karl who acted prior to his enthronement (Karl IX, 1604–1611) as the Duke of Södermanland. The ordinances given by Duke Karl concerned his dukedom.⁶¹ These ordinances have also been included in this study because they addressed the same issues as all the other ordinances in the compilations, i.e., issues of police.

The above mentioned four compilations include a total of 1 236 ordinances from the period between 1523 and 1718. It is difficult to evaluate how comprehensive the compilations are since the prefaces to the works do not give any indication of this. However, a register of all Swedish police ordinances issued between 1521 and 1809 is in the pipeline. According to the manuscript of this register, a total of 1 667 police ordinances were given in Sweden 1523–1718.⁶² Based on this data, the four compilations included in this study would thus cover some 74 % of all police ordinances issued in Sweden between 1523 and 1718.

However, more important than the number of ordinance is the number of police matters dealt with in ordinances. Namely, a single ordinance sometimes included several objects of regulation. For instance, questions concerning monetary institution, agriculture and vagrancy could all be

⁵⁹ Ibid., 1170–1174.

⁶⁰ For instance, in 1621, Gabriel Gustafsson Oxenstierna (1587–1640) and Lars Bengtsson Skytte (1574–1634) issued 'general guild rules' (*General Embetes Skrå*) with the authorisation of King Gustav II Adolf (1611–1632) who was busy with waging war against Poland. See von Stiernman, *Commerce, Politie och Oeconomie... I*, 781–793. See also pp. 793–803.

⁶¹ For instance, in 1573, Duke Karl issued an ordinance in which he banned all illegal trade in the countryside (*Landzkiöp*) in the Province of Närke which belonged to his duchy. See von Stiernman, *Commerce, Politie och Oeconomie... I*, 232–233. See also pp. 261–264, 286–288.

⁶² The data was kindly provided by Karl Härter.

regulated in one and the same ordinance.⁶³ Therefore the number of regulated matters is higher than the number of ordinances. The total number of police matters dealt with in the 1 236 ordinances amounts to 1 428 matters. In what follows, the numbers always refer to the number of matters dealt with in police ordinances unless otherwise noted. In this study the matters touched upon in police ordinances are categorized according to the same classification as used in the above-mentioned *Repertoria* published by the *Max-Planck-Institut für europäische Rechtsgeschichte*. The categorization of different police matters is represented here in table form.⁶⁴

1 Societal and Social Order, Religion

1.1 Matters of Religion

Mendicants, Festivals and Religious Holidays, Clergy, Blasphemy, Church Administration, Church Discipline, Monasteries, Confession, Religious Instruction, Sects and Heresy, Keeping the Sabbath

1.2 Population and the Estate System

Levies and Taxes, Residence Rights, Emigration, Townsfolk, Internal Migration, Burgher Rights, Immigration, Rent Service, Local Government, Dominion, Oaths of Allegiance, Serfdom, City Government, Estate System

1.3 Marginal Groups

Vagrants, Jews, Gypsies

1.4 Luxury

Conspicuous Consumption, Clothing, Furnishing

1.5 Morality, Marriage and Family Life, Sexuality

Bigamy, Adultery, Divorce, Marriage, Domestic Order, Brothels, Sodomy, Incest, Concubinage, Prostitution, Extramarital Children, Unchastity, Betrothal

1.6 Guardianship

1.7 Succession

2 Public Safety and Order

2.1 Amusements and Frivolity

Superstition, Gambling, Gross Mischief, Idleness, Public Plays, Opening Hours, Libel, Dancing, Parades, Drunkenness

2.2 Public Safety and Criminality

Defecation, Duels, Slander, Protection of Property, Wandering and Begging Soldiers, Secret Societies, Violent Crime, Witchcraft, Military Service, Soldiers, Disturbance of the Peace, Public Security, Riots, Public Meetings, Carrying Arms

⁶³ See e.g. von Stiernman, *Commerce, Politie och Oeconomia... I*, 48–53.

⁶⁴ Härter and Stolleis, introduction, 20–30. In the original German index police matters appear in alphabetical order. I have not changed this original order in my English translation.

- 2.3 Censorship and Printing
- 2.4 Administration and Judiciary
 - Misconduct or Offence in Office, Obligation to Report to the Police, Supervisory Duty, Stages of Appeal, Public Announcements, Enforcement of Civil Judgments, Court System, Chancellery, Execution of Punishments, Procedure, Jurisdiction
- 3 **Poor Relief, Public Health, Education and Schooling, Culture**
 - 3.1 Public Health
 - Chemists, Physicians, Barber-Surgeons, Baths, Undertaking, Midwifery, Quacks, Hygiene, Nursing, Plagues
 - 3.2 Poor Relief
 - Poor Relief, Begging, Hospitals, Orphanages, Houses of Correction
 - 3.3 Education and Schooling System, Culture
 - Libraries, Vocational Schools, Arts, Schools, Universities, Sciences, Calendars
- 4 **Economic System, Professions**
 - 4.1 Agriculture
 - Peasants, Feudal Obligations, Fields, Partitioning of Land and Farming, Unauthorized Cultivation, Products, Members of the Household, Production, Pest Control, Animal Husbandry, Animal Diseases, Common Land and Grazing, Winegrowing
 - 4.2 Forestry and Land Use
 - Mining Industry, Use of Minerals, Fishing, Forestry, Moors and Marshes, Hunting, Quarries
 - 4.3 Industrial Production
 - Manufacturing, Production, Brokerage
 - 4.4 Work regulation
 - Workers and Day Labourers, Work Control, Miners, Servants, Housework, Child Labour, Ban on Trade Unions, Shepherds
 - 4.5 Handicrafts and Trades
 - Skinners, Labour Exchange, Bakers, Rural Trades, Journeymen, Goldsmiths and Silversmiths, Guild Rules, Apprenticeship, Wage Rates, Master Craftsmen, Millers, Control of Prices and Quality, Trade Licences, Hangmen, Guild System
 - 4.6 Commerce and Service Branch
 - Inns and Taverns, Agency, Trading Rights, Peddlers, Merchants, Regulation of Consumption, Fairs, Weights and Measures, Monopolies, Control of Prices, Excises, Livelihood, Legal Enforcement of Contracts, Quality of Products, Customs Duties
 - 4.7 Monetary and Credit System
 - Usury, Bankruptcy, Granting Credit, Monetary Institutions, Interests
- 5 **Land Division, Public Construction, Real Estate, Public Institutions**
 - 5.1 Water Ways and Water Works
 - Bridges, Wells, Dams, Rivers, Canals, Shipping, Floods, Water Supply and Sewerage

- 5.2 Roads, Transportation and Mail
Post Office, Streets and Squares, Transportation
- 5.3 Land and Real Estate
Estates, Rent on Land
- 5.4 Public Construction and Infrastructure
Waste Disposal, Construction, Streetlights, Fire Safety, Storms

So, as the above list suggests the scope of early modern police ordinances was immense. In order to chart all the matters regulated in ordinances, every single ordinance of the 1 236 ordinances of the four compilations has been analysed. No sampling has been made. This study is thus based on a qualitative analysis of ordinances.

The structure of the book is as follows. Since the research object of the book is Swedish early modern royal police ordinances, the second chapter discusses first the emergence of royal legislative powers and legislative doctrine in late medieval and early modern Sweden. Few existing contemporary Swedish treatises on political theory will be scrutinized especially in so far as they explicitly discuss kings' legislative duties. Swedish development will also be viewed against the wider background of the history of political theory in Europe (mainly Germany). The third and fourth chapters form the nucleus of this study. In these chapters police ordinances will be scrutinized in order to be able to answer the above-posed research questions on the contents, legitimation, and logic of police ordinances. The fifth chapter will deal with the emergence of police science in eighteenth century Sweden. Special attention will be paid to the continental influence over Swedish police treatises. This chapter will remain somewhat separate from the preceding chapters but is included in the study because analysis of eighteenth-century police literature offers the reader a clue about the gradual disintegration of the early modern broader notion of police that really took off during the nineteenth century. The conclusions of the study will be presented in the sixth and final chapter. Each chapter will refer to the simultaneous development of police legislation in Germany and France. This modest comparative element is solely based on existing research literature; no original German or French police ordinances have been analysed.

CHAPTER TWO

LEGISLATIVE THEORY AND POLICE IN EARLY MODERN SWEDEN

DEVELOPMENT IN GERMANY AND FRANCE

It is generally agreed in the research literature on the history of European political thought that based on the doctrines of canon law a new conception of kingship started to emerge from the twelfth and thirteenth centuries onwards. Questions of the governmental duties and legislative powers of secular rulers gradually rose to the agenda of political theory.¹ Especially from the thirteenth century onwards, secular kings were no longer seen, as they still had been in the early Middle Ages, merely as guardians of 'peace and justice' (*pax et iustitia*). Instead, kingship assumed a new function: actively steering society in order to achieve desired and preset political goals. Consequently, royal legislation came to be seen as a central steering instrument. Later, when doctrinal influence and ideals were increasingly drawn from Roman law, Aristotelian scholasticism and Northern Italian 'city state literature', religion and theology began to lose their status as the primary point of reference. Such concepts as *utilitas publica* and *bonum commune* found their way into the centre of political thinking.²

In this novel operational environment the need arose for a new 'legislative theory' (*Gesetzgebungstheorie*). What kind of matters were to be regulated through legislation? How extensive should regulation be? What were the appropriate techniques to be used? How was the implementation of legislation to be taken care of? These were the questions, among others, that were pondered in late medieval political tractates. One of the first theorists who invested the ruler with extensive legislative powers, and thus represented a break from the medieval tradition, was Aegidius

¹ See e.g. Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (New Jersey: Princeton University Press, 1997), 87 ff; Sten Gagnér, *Studien zur Ideengeschichte der Gesetzgebung* (Uppsala: Acta Universitatis Upsaliensis, 1960), 121 ff; Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Massachusetts: Harvard University Press, 1983), 404–519; Simon, "Gute Policy", 9–89; Paolo Prodi, *Eine Geschichte der Gerechtigkeit: Vom Recht Gottes zum modernen Rechtsstaat* (München: Verlag C. H. Beck, 2003).

² Simon, "Gute Policy", 9–52.

Romanus (Giles of Rome, 1243–1316) with his work, *De regimine principum* (ca. 1280). It was not enough for the king to be virtuous and just, but he should also be well informed about various matters and circumstances of his realm. In fact, Aegidius saw that the personal virtues of a ruler should be kept apart from political activities, thus following the Aristotelian division between ethics, economy and politics. According to Aegidius, a system of norms was to be flexible in order to meet the exigencies of changing circumstances. On the other hand, Aegidius still stressed the importance of the stability of laws and their compatibility with customary law as well as principles of natural law. Nevertheless, the seeds of a voluntaristic understanding of law had been sowed.³

In the course of the late Middle Ages, several works on rulers' rights and duties also started to spring up in Germany. This so called 'mirror-for-princes literature' (*Fürstenspiegelliteratur*) was partly written in the vernacular and was intended to meet the practical needs of the governments of various territorial states. In comparison to the scholastic mirror-for-princes, German works still reflected the older tradition of seeing rulers primarily as 'guardians of peace and justice' (*Schutz und Rechtswahrung*). However, during the sixteenth century, new ideological influences started to affect German political literature. The impact of humanism began to show in the increasing use of sources of Antiquity, especially in the so called *humanistische Fürstenspiegeln*. Soon, this trend was to give way to the so called 'mirror-for-princes of the Reformation' (*reformatorisches Fürstenspiegeln*) in which use of the Bible as a normative source was common. Perhaps the most important genre of the sixteenth-century German political literature was nonetheless the so-called 'tractates on government' (*Regimentstraktate*). The focus of the *Regimentstraktate* was no longer so much on the ruler and his person but on the state authorities in general. Many of the writers had a background in administration. Although scholastic writers like Aegidius were utilized, the *Regimentstraktate* did not represent any fundamental break from the medieval German *Fürstenspiegel* tradition.⁴

³ Simon, "Gute Policey", 52–89; Maurizio Viroli, *From Politics to Reason of State: The acquisition and transformation of the language of politics 1250–1600* (Cambridge: Cambridge University Press, 1992), 36–44; see also Kantorowicz, *King's Two Bodies*, 134–135.

⁴ Simon, "Gute Policey", 91–104; Maier, *Staats- und Verwaltungslehre*, 105–151; Schulze, *Policey und Gesetzgebungslehre*, 43–50.

A theme common to both *humanistische* and *reformatorische Fürstenspiegeln* as well as *Regimentstraktate* was an emphasis on good societal order. It was commonly agreed in various works that the duty of the ruler and his authorities was also to see that 'good order and government' (*gute Policey*) prevailed in society. Because of this, the *Regimentstraktate* in particular have been considered as an early form of *Policeyliteratur*. However, the concept of order that the sixteenth century treatises were referring to was still reasonably static and religious in nature. Political theory in sixteenth century Germany was still influenced by moral-religious argumentation. The duty of the ruler was to preserve and restore the societal order preordained by God.⁵ This view also becomes evident if one examines the sixteenth-century legislation of the German rulers. To a large extent, legislation was still primarily given in order to consolidate existing laws rather than create new ones. The concept of 'lawgiver' (*Gesetzgeber*) did not yet appear in sixteenth-century German treatises in comparison to scholastic tradition. Instead, the ruler was still conceived of as *custos legum*, i.e., the 'custodian of laws'.⁶

From the beginning of the seventeenth century, political theory in German territories began to change gradually through adoption of new influences, especially from Italy. The concept of *ratio status* (Germ. *Staatsräson*, Fr. *raison d'état*) that had still been almost unknown in the sixteenth-century literature started to appear increasingly in seventeenth-century tractates. The term *ratio status* was given many different meanings in contemporary literature. Nevertheless, two main traditions have been identified. Firstly, especially at the beginning of its reception, the concept of *ratio status* was used to signify the ruler's person, his powers, and the ways those powers were exercised and augmented. This interpretation adhered to the Machiavellian tradition. Secondly, later in the seventeenth century a new meaning began to be attached to the concept. *Ratio status* was ever more often used to refer to 'society' (*respublica*) at large and especially to maintaining 'public security' (*securitas publica*) and 'societal peace' (*tranquillitas reipublicae*). The adoption of *ratio status* thinking also affected the way in which the older tradition of *gute Policey* was understood. Whereas the ruler's *status* was first seen only as a part of the larger *Policey*, i.e., *respublica*, it was later conceived as something separate from

⁵ Simon, "Gute Policey", 104–151.

⁶ *Ibid.*, 173–191.

it. The demarcation between the ruler and the society became clearer. As a result, to the concept of *Policey* were also attached new, more concrete meanings. It was no longer solely the abstract, pre-given and religious-moral order that the term *Policey* referred to, but rather a more concrete societal order that needed to be actively maintained and promoted.⁷

While conceptions of societal order gradually changed, awareness of the need for active and effective political steering grew stronger. Demands for more vigorous steering entailed a need to redefine the relationship between law and politics. Whereas in the sixteenth century law had still been conceived as a guide for politics, during the seventeenth century law came to be seen more often as a hindrance to political goals, be they the 'conservation of princely authority' (*conservatio status*) or public utility. Politics began to gain autonomy from law and political theory became more scientific and secular. Lawgiving (*Gesetzgebung*) came to be seen separately from administration of justice (*Gesetzesanwendung*); the former belonged to the realm of politics and the latter to the administration of justice. As a consequence of this separation, police matters and administration also started to be distinguished from matters of justice. It was argued that courts should not meddle in police matters which were considered to be of public concern whereas matters of law concerned private issues. Many ordinances were given on this issue.⁸

One of the most renowned German writers of this period was Veit Ludwig von Seckendorff (1626–1692) with his seminal work *Teutscher Fürstenstaat* of 1656. In a way, Seckendorff formed a bridge between the older medieval conception of rulership and the newer, early modern one. In particular, Seckendorff not only conceived a ruler as the guarantor of justice and peace in the society but also as an active promoter of the common good and the well-being of subjects. Furthermore, Seckendorff seems later in his writings to have changed his view, for instance, on the role of the ruler in promoting people's means of livelihood. Initially, in the *Teutscher Fürstenstaat* Seckendorff saw that the role of the ruler was to secure a livelihood for all his subjects through protection of the right of each estate to practice only its own sources of livelihood. However, in his subsequent *Additiones* to the work Seckendorff argued that the role of the ruler was merely to create for everyone a possibility to earn one's

⁷ Ibid., 193–243; Friedrich Meinecke, *Machiavellism: The Doctrine of Raison d'État and Its Place in Modern History* (New Brunswick and London: Transaction Publishers, 1998), 126–145.

⁸ Simon, "Gute Policy", 341–380.

own livelihood. Seckendorff even suggested that the guild system could be abolished, thus anticipating later ideas of economic liberalism.⁹

In France, too, the political literature that dealt with police was still quite 'conservative' in nature in the sixteenth century. The majority of treatises concentrated on scrutinizing the question about the best form of government. The use of the term *police* was still fairly unsystematic. The term was used to refer to a variety of things: good order, the state, the form of government, governmental institutions and authorities, ordinances, and so on. Questions concerning lawgiving were not yet in the foreground of political theory. One of the most notable works that had a far-reaching influence on contemporary political theory was Claude de Seyssel's (1450–1520) *La monarchie de France* of 1519. The work was an apology for moderate monarchy. Seyssel argued that monarchy was the best form of government but that it was also restrained by three normative orders: religion, justice, and police. *Bonne police* referred to the balance between the estates; each estate should be content with living according to its status and rights. These customary based rights were confirmed in various police ordinances given by the kings themselves. Seyssel thus endowed the term police with a double meaning. It referred both to the 'unwritten constitution' of the monarchy and the legal rules that guaranteed good order in society.¹⁰

Again in France, in the course of the seventeenth century, formulations of the concept of police became more accurate and issues related to lawgiving gained increasing attention. In addition to the abstract societal order and concrete ordinances, the term police was increasingly used to refer to the administration. In this regard, Louis de Mayerne Turquet's (1550–1618) work, *La monarchie aristo-démocratique*, published in 1611 was a pioneering work in many respects. Mayerne Turquet emphasized the role of administration, especially royal authorities such as *officiers* and *magistrats*, in achieving *bonne police*. He also claimed that the purpose of all legislation was to serve the public good even though positive law was, of course, also to be congruent with divine and natural law.¹¹

⁹ Maier, *Staats- und Verwaltungslehre*, 139–149.

¹⁰ Iseli, "Bonne Police", 23–29, 67.

¹¹ Ibid., 26–29, 67.

SWEDEN AND EUROPEAN EXAMPLES

Such were the conditions for intellectual and literary culture in seventeenth-century Sweden. A kingdom under construction, in ample need of foreign expertise, with an ambiguous attitude towards foreign cultural influence, universities in the service of the church and the state, a Latin language barrier around academic life, with few intellectually industrious people and insignificant publishing activity.¹²

Bo Lindberg uses these words to describe intellectual culture in early seventeenth-century Sweden. The characterization does not give a flattering picture of intellectual and academic culture in early modern Sweden. However, it is nevertheless a truthful account of contemporary circumstances. Universities were under strict control of the government and above all harnessed for the practical need to educate priests and civil servants for the state. The few works that were published in Swedish were merely translations of continental classical and early modern texts. In the light of Lindberg's description one might assume that in the seventeenth century not too much Swedish literature on political theory appeared either. Although not great in number, some manuscripts and tractates on political theory in the vernacular nevertheless existed. Most of the works belong to the 'mirror-for-princes' (*speculum regale*) literary genre. Next, I will discuss the most renowned of these. Special attention will be paid to legislative doctrine and matters of police as presented in these tractates.

Konungastyrelsen

The first of these works is a medieval manuscript called *Konungastyrelsen*.¹³ The work dates back to the first half of the fourteenth century although there is no certainty as to its author. What is known, however, is that one of the principle sources for *Konungastyrelsen* was Aegidius Romanus's progressive work *De Regimine Principum* which has already been discussed above. Indeed, *Konungastyrelsen* includes several references to Aegidius' work although other medieval as well as classical texts have been utilized. The manuscript of *Konungastyrelsen* was edited and brought into printed

¹² Bo Lindberg, *Stoicism och stat: Justus Lipsius och den politiska humanismen* (Stockholm: Atlantis, 2001), 191.

¹³ The full title of the work is *En nyttigh Bok om Konunga Styrlse och Höfdinga* [A Useful Book on Princely Governance].

form for the first time in 1634 by a royal librarian and runic scholar named Johannes Bureus (1568–1652).¹⁴

In accordance with medieval Swedish terminology, *Konungastyrelsen* consists of four ‘main chapters’, i.e., *balkar*. The first *balk* chiefly discusses different forms of government: whether it is better to live in a monarchy or democracy; whether it is better to have an elective king or a hereditary one; and so on. After having given arguments in a scholastic style both for and against different forms of government, the author tends to think that hereditary monarchy is the best form of government.¹⁵ The second *balk* treats matters of the ruler’s ‘self-government’, i.e., the virtues that a ruler should possess. The author lists, among other things, the four cardinal virtues of scholastic moral philosophy: “prudence” (*forhuxan*), “fortitude” (*starkleker*), “temperance” (*hofsämi*), and “justness” (*retwisan*).¹⁶ The third main chapter of *Konungastyrelsen* discusses the governance of the royal household.¹⁷ Finally, the fourth *balk* discusses the governance of the country. Attention is paid, for instance, to questions such as how to ensure that magistrates are good, counsellors are wise, laws are useful, subjects are obedient, defence is strong, and so on.¹⁸

What most interests us here is the second section of the fourth main chapter which is entitled “On the Governance of the Realm” (*Om Rijkensens skipelse*). It is also noteworthy that Bureus, the first editor of *Konungastyrelsen*, added in the margin under this particular section the word “police” (*politia*). He thus saw that the matters dealt with in this particular section concerned the issue of good societal order. The section begins by telling how God has appointed kings as his representatives in the world. According to the author, the task of each king is to rule so as to “satisfy the needs of the people” (*allom almogha til tarf*). After this rather abstract and ideological argument the section moves on to discuss more tangible matters, namely, how to benefit the land and its people in practice. This is achieved, for instance, by proper road maintenance in order for the people to be able to travel between the cities and the countryside throughout the year. The king should also ensure that there are

¹⁴ Lennart Moberg, *Konungastyrelsen: En filologisk undersökning* (Uppsala: Samlingar utgivna af svenska fornskrift-sällskapet, Häft. 225. BD 69:2., 1984), 11–16.

¹⁵ [*Konungastyrelsen*] *En nyttigh Bok om Konunga Styrilse och Höfdinga. Johannes Bureus utgåva 1634*, ed. Lennart Moberg (Uppsala: Samlingar utgivna av svenska fornskrift-sällskapet, BD 69:1. 1964 [orig. 14th century]), 2–11.

¹⁶ *Ibid.*, 12–40.

¹⁷ *Ibid.*, 40–55.

¹⁸ *Ibid.*, 56–87.

enough roadside inns so that journeymen can buy food and utensils for themselves and their horses. The king is also responsible for peace-keeping in the cities and on the roads. It is also the king's responsibility to ensure that the country is equipped with harbours so that both foreign and domestic ships can safely trade their goods. Finally, the king should also send just and loyal delegates to different parts of the country to take care of royal property and to administer royal justice.¹⁹

The third section of the fourth main chapter is "On Law" (*Om Lagh*). The section begins by describing how the king should give the land and its people "good laws and justice" (*godh lagh ok rätwis*), and how people should live peacefully with each other. According to the anonymous writer, Aristotle had already argued that the characteristics of a good law were that it was "just, useful and possible to comply with" (*rätwis, tarflik ok möghelik*). Next, the work discusses point by point what each of these characteristics of a good law means in practice. For instance, laws that are based on good and ancient customs are also easy to follow.²⁰ Gösta Åqvist has claimed that the *Konungastyrelsen* had a widespread influence on the main chapter concerning election of the king, rights and duties of the king, i.e., *Konungsbalken*, in both Magnus IV Eriksson's Law of the Land from the 1350s and King Kristoffer's Law of the Land from 1442. Åqvist's claim is based on a comparison between individual provisions in these documents.²¹

In conclusion, it can be argued that the *Konungastyrelsen* includes a separate, although brief, section on legislative theory. It not only claims that certain matters fall within the king's authority but it also defines the qualities of law through which those matters are to be regulated. The text no longer solely defines kingship through the tasks of protecting the king's subjects and their customary laws. Instead, the king has also been invested with legislative tasks. The progressiveness of *Konungastyrelsen* is of course explained by its intellectual paragon, Aegidius's *De Regimine Principum*. In a Scholastic-Aristotelian fashion, *Konungastyrelsen*, too, distinguishes between the ethical, economic and political aspects of kingship.

¹⁹ Ibid., 63–66.

²⁰ Ibid.

²¹ Gösta Åqvist, *Kungen och rätten: Studier till uppkomsten och den tidigare utvecklingen av kungens lagstiftningsmakt och domsrätt under medeltiden* (Lund: Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin, 1989), 167–169.

Peder Månsson's Barnabok

The second treatise which must be discussed here is a book by Peder Månsson (d. 1534). From 1508 to 1524, Månsson (Lat. Petrus Magni) lived in Rome as a delegate of Vadstena abbey managing the legal affairs of a house that was bequeathed to the abbey by Saint Bridget of Sweden. During his stay in Rome, Peder Månsson received a doctoral degree in canon law. After sixteen years abroad, Månsson was recalled home by King Gustav Vasa (1523–1560) to be consecrated as Bishop of Västerås.²²

It was also in Rome where Månsson wrote his extensive *oeuvre*. The list of his works consists of the following manuscripts: 1) *Sjökonsulatet* (a codification of maritime customary laws); 2) *Stridkonst* (on the art of war); 3) *Bondakonst* (on the art of agriculture); 4) *Väderlekskalender* (a weather calender); 5) *Konstbok* (on chemistry); 6) *Stenbok* (on gemstones); 7) *Ädelstenars bearbetning* (on gem cutting); 8) *Skinerberedning och Sätterwärskonst* (on producing leather canvases and carving); 9) *Retrakt* (on ornaments); 10) *Glaskonst* (on glass making); 11) *Om klockors vikt och proportioner* (on the weight and proportions of bells); 12) *Strödda läkedomsråd* (on medicaments); 13) *Bergsmanskonst* (on mining); 14) *Barnabok* (on the upbringing of a Christian prince). Månsson's manuscripts are chiefly truncated translations of classical or early modern works. For instance, the *Sjökonsulatet* is a translation of an Italian translation, *Il Consolato del mare*, of an originally Spanish compilation of medieval maritime and shipping laws. However, it has been argued that Månsson showed great skill in his use of his mother tongue; Månsson's works open an indispensable window on medieval/early modern Swedish language.²³

The work by Månsson that most interests us here is his *Barnabok* (on the upbringing of a Christian prince). It has been argued that *Barnabok* is a more or less accurate translation of Erasmus of Rotterdam's (1466–1536) *The Education of a Christian Prince*. Erasmus's work represents the humanistic mirror-for-princes genre of which it is typical to emphasise the importance of virtues in political life.²⁴ Only here and there has

²² Johan Granlund, introduction to *Peder Månssons Bondakonst jämte paraallelltexter utgiven med inledning och kommentar av Johan Granlund*, by Peder Månsson (Uppsala: Samlingar utgivna av svenska fornskrift-sällskapet, Häft. 254. BD 75, 1983), 8; Robert Geete, introduction to *Peder Månssons skrifter på svenska efter handskrifter i Stockholm, Uppsala och Limköping med en inledning utgifna af Robert Geete*, by Peder Månsson (Stockholm: Samlingar utgifna af Svenska fornskrift-sällskapet, 1913–1915), iv–v.

²³ Geete, introduction, vi–xli.

²⁴ Quentin Skinner, *The foundations of modern political thought. Vol. 1: The Renaissance* (Cambridge: Cambridge University Press, 1978), 213–243.

Månsson made an effort to modify Erasmus's book to meet the demands of a Swedish reader.²⁵ For instance, Månsson's book closely follows the structure of Erasmus's book even though it does not include a table of contents as does Erasmus's work.²⁶

Apart from giving advice on how to raise a child who will one day become king, Månsson's book is to a large degree a book on how to be a good king. The book offers a set of general principles that every princely person should follow during his reign. A good king should, for instance, be "wise, good-hearted and just and always consider the best interest and well-being of his subjects" (*wijs, sneller, retwijs och wijll och kan weta almennes bästha*). A badly brought up king, in contrast, is a misfortune for the whole country.²⁷ A good king should pass laws that always aim at the "benefit of the people" (*menighetenes bäste och gagn*). He ought not, however, to pass too many laws because the people would otherwise forget and not obey them. Laws should not be too strict, either.²⁸ It is also within the duties of a well-brought up king to travel around the realm in order to learn the state and affairs of his country. A good king also takes care of the infrastructure of the country. He must see that the cities are equipped with walls, that bridges are built over rivers, that there are enough harbours for ships, that the cities are kept clean in order to prevent pestilence, that forsaken estates are farmed again, that there are sufficient artisans in the country, and so on.²⁹ According to Månsson, a good king was thus not only a right-minded judge but someone who also took active care of the administrative matters of the country, i.e., matters of police.

²⁵ Geete, introduction, xxxviii–xli.

²⁶ Erasmus's work is divided into eleven chapters: 1) The birth and upbringing of a Christian prince; 2) The prince must avoid flatterers; 3) The arts of peace; 4) Revenue and taxation; 5) Generosity in the prince; 6) Enacting or amending laws; 7) Magistrates and their duties; 8) Treaties; 9) The marriage alliances of princes; 10) The business of princes in peacetime; 11) On starting war. See Erasmus of Rotterdam, *The Education of a Christian Prince*, ed. Lisa Jardine (Cambridge: Cambridge University Press, 2003 [orig. 1536]), 1.

²⁷ Peder Månsson, *Barnabok*, in *Peder Månssons skrifter på svenska. Efter handskrifter i Stockholm, Uppsala och Linköping*, edited by Robert Geete (Stockholm: Samlingar utgifna af svenska fornskrift-sällskapet, 1913–1915 [orig. 1510s and 1520s]), 658–663.

²⁸ Månsson, *Barnabok*, 697–701.

²⁹ *Ibid.*, 705–706.

Johan Skytte's Een kort Vnderwijsning

The third early modern Swedish mirror-for-prince which must be mentioned here is Johan Skytte's (1577–1645) *Een kort Vnderwijsning Vthi Huad Konster och Dygder Een Fursterligh Person skall sigh öfwe och bruke, then ther tencker medh tijdhen lyckosalighen regere Land och Rijke* from 1604.³⁰ Skytte was a son of a wealthy merchant and mayor of the town of Nyköping. In his youth, Skytte studied philosophy and jurisprudence in different German universities, most probably aiming to achieve an office in the royal chancellery.³¹ Eventually, in 1602, Skytte was appointed by King Karl IX (1604–1611) as a tutor for the young Crown Prince Gustav Adolf. When Skytte received the post, it is likely that he was asked to give a written account of how he would organize the education of the crown prince. As a result, Skytte published his book on princely education.³² Later in his career, Skytte was appointed a Member of the Council of State (1617) and as Chancellor of the University of Uppsala (1622).

One of the main inspirations and sources for Skytte's work seems to have been the *Mémoires* of Philippe de Commynes (1447–1511), a Dutch diplomat and writer. De Commynes worked at the court of Louis XI (1461–1483) of France. It has been argued that de Commynes was not interested in the theoretical ideals of a good prince, like the contemporary writers of mirror-for-princes, but rather in practical questions concerning how to maintain political power. In this regard, the views presented in de Commynes's *Mémoires* came close to those of Machiavelli's (1469–1527) *Prince* although de Commynes did not quite go to the same extremes as did Machiavelli.³³

In reference to Commynes, Skytte writes that an educator of a prince should always inform the citizens how their “master and ruler” had been

³⁰ [A Short Lesson about the Faculties and the Virtues that a Princely Person, Who in Due Course Wishes to Happily Rule the Country and the Realm, Should Learn and Train.]

³¹ Tor Berg, *Johan Skytte: Hans ungdom och verksamhet under Karl IX:s regering* (Stockholm: Albert Bonniers Förlag, 1920) 10–12, 43–74. Johan Skytte's family name was originally Bengtsson but he changed it to Schroderus as he started his studies in Frankfurt in 1592. Later, in 1604, he assumed the name Skytte as he was raised to the nobility.

³² Berg, *Johan Skytte*, 96.

³³ Joël Blanchard, *Philippe de Commynes* (Paris: Fayard, 2006), 403, 468–469. According to Bo Lindberg, Skytte seems also to have been influenced by a Flemish Neostoic philosopher and political theorist, Justus Lipsius (1547–1606). Later in the seventeenth century, an effort was made to translate Lipsius's main work on political theory, *Politica*, into Swedish by Per Brahe Jr. (1602–1680). However, the Lipsius-translation was never finished or published. See Lindberg, *Stoicism*, 194–197, 205–212.

taught.³⁴ Skytte writes further that the virtues and arts that a prince should learn are three-fold: 1) Religion and service of God; 2) Liberal arts (and politics); 3) Knightly (bodily) exercises.³⁵ The focus of Skytte's book was on the second point, i.e., liberal arts. Skytte lists arguments in favour of grammar, dialectics, rhetoric, arithmetic, music, geometry and astronomy.³⁶ Furthermore, Skytte recommends that after studies in liberal arts the prince should move on to the study of "politics" (*politica*) for it teaches the prince how to rule the country. According to Skytte, one of the main duties of a prince is to advance the well-being of the ordinary man. In order to achieve this goal, a prince needs wise and learned advisors.³⁷ In addition to politics, a prince should study "history and jurisprudence" (*historianum och jurisstudium*). History is rich in examples of both good and bad rulers. For this purpose, Skytte especially recommends reading Commynes' work. Studies in law, on the other hand, inform the ruler about the laws of the country and acquaint him with what "jurists" (*jure-consulti*) have written about the laws of foreign countries.³⁸

In comparison to *Konungastyrelsen* as well as Månsson's *Barnabok*, Skytte's work does not include anything that could be characterized as a legislative doctrine. As the title indicates, Skytte's work is more clearly concentrated on the upbringing and education of the future King rather than the actual task and duties of the king. Nevertheless, Skytte's book became more familiar among the contemporary public, in contrast to *Konungastyrelsen* and Månsson's work. The reason for this was that it was immediately published in printed form. It is improbable that Månsson's *Barnabok* had any influence on Skytte's book.³⁹

³⁴ Johan Skytte, *Een kort Vnderwijsning Vthi Huad Konster och Dygder Een Fursterligh Person skall sigh öfwe och bruke, then ther tencker medh tijdhen lyckosalighen regere Land och Rijke* (1604), 10.

³⁵ *Ibid.*, 11.

³⁶ *Ibid.*, 15–32.

³⁷ *Ibid.*, 33–41.

³⁸ *Ibid.*, 41–44.

³⁹ Berg, *Johan Skytte*, 105. In addition to the *Konungastyrelsen*, Månsson's *Barnabok* and Skytte's *Kort Vnderwijsning*, a couple of other works belonging to the genre of mirror-for-princes were translated into Swedish. Johan Skytte's brother, Ericus Schroderus (1570s–1647) translated in 1608 a short work by King James I of England, *Regium donum*. The translation was entitled *Regium donum eller Konungslig förärning*. In 1616, Schroderus also translated Fulvio Pacciani's work, *De vero justoque principe*. Pacciani was an adviser to Italian princes and popes during the turn of the seventeenth century. See Nils Runeby, *Monarchia Mixta: Maktfördelningsdebatt i Sverige under den tidigare stormaktstiden* (Stockholm: Svenska bokförlaget, 1962), 50, 110.

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In conclusion, it can be argued that early modern Sweden was not completely unfamiliar with contemporary continental currents of political theory. The three works discussed, *Konungastyrelsen*, Månsson's *Barnabok* and Skytte's *Een kort Vnderwijsning* were all heavily influenced by different Continental European traditions. Whereas the medieval *Konungastyrelsen* was inspired by Aegidius Romanus's groundbreaking work *De regimine principum*, Månsson's *Barnabok* reflected the humanistic views of its paragon, *The Education of a Christian Prince* by Erasmus of Rotterdam. Skytte's work, on the other hand, was influenced by de Commynes's practical politics, thus reflecting even a Machiavellian tradition. Due to its paragon, *Konungastyrelsen* in particular represented fairly progressive views on a king's legislative tasks and the qualities of good laws. Månsson's *Barnabok*, too, clearly included a part that may be characterized as an elementary legislative doctrine. However, in order to obtain a full picture of kings' legislative activities in early modern Sweden, one must study actual royal legislation, i.e., police ordinances issued in the sixteenth and seventeenth centuries. It will be interesting to see, against the intellectual background canvassed above, what kind of a legislative theory, if any, early modern royal police ordinances embody.

CHAPTER THREE

ROYAL POLICE ORDINANCES BETWEEN 1523 AND 1611: ENFORCEMENT OF MEDIEVAL LAWS

SWEDISH SOCIETY DURING THE SIXTEENTH CENTURY

It begins with one of the most significant changes in Swedish *State* history, or to be precise, when for the first time Sweden was upraised from barbarity by the mighty war and peacetime King *GUSTAV Eriksson*, a proper king's chancellery was established, common statutes and ordinances were given in a printed form to the people to be learned and followed, and when, through the earnest endeavours of this honourable king, a beautiful foundation through *Oeconomie*, *Politie* and *Commerce* was laid to a well-established and consolidated *State*.¹

This passage is taken from the prologue to the index of all the royal police ordinances included in the first five volumes of Stiernman's compilation. The passage indicates the year from which Stiernman's compilation starts, i.e., 1523. It was indeed this very year when King Gustav Vasa (1523–1560) took his place on the throne and the foundations of the Swedish national state were consolidated. Of course, royal legislation had also been given before Vasa's reign. Gösta Åqvist has dated the birth of royal legislative powers to the thirteenth century, when Swedish kings started to issue the so called 'statutes' (*stadgor*) or 'statute legislation' (*stadgelagstiftning*).² However, it has been argued that these earlier statutes differed from the later police ordinances. They should be considered as pacts concluded together with the king and the great men of the country, i.e., the forming nobility. For instance, in the *Alsnö stadga* from 1280 King Magnus Birgersson (1275–1290) promised the present great men exemption from taxes in exchange for services or for provision of a cavalryman. Four

¹ *Register Öfwer Innehållet Af alla Fem hittills utkomme Delar Af Kongl. Bref, Stadgar och Förordningar etc. Angående Sweriges Rikes Commerce, Politie och Oeconomie*, 1771, Företal. "Det börjar wid en den märkwärdigaste Stats förändring, eller rättare sagdt, då Sverige af den stora både Krigs- och Freds-Hjelten Konung GUSTAF Erichsson först rycktes utur sitt Barbari, ordenteligt Konunga-Cantzlie inrättades, Allmänna Stadgar och Förordningar igenom tryck lemnades til alla inwånares kundskap och efterrättelse, samt igenom denne Glorwürdigste Konungs ärofulla bemödande en wacker grund gjordes til en igenom Oeconomie, Politie och Commerce wäl inrättad och befästad Stat."

² Åqvist, *Kungen och rätten*, 14 ff.

years later, in 1284, the *Skenninge stadga* defined the procedure to be followed when issuing royal statutes.³ However, before Gustav Vasa's reign, the kings in Sweden were not strong enough, i.e., in terms of centralized power, to enact ordinances independently. As already stated in the first chapter, the emergence of police ordinances in Europe went hand in hand with the formation of modern centralised states.

This chapter will examine royal police ordinances that were issued between 1523 and 1611. However, before any closer study of the ordinances, a brief glance into the political, economic and social life of sixteenth- and early seventeenth-century Sweden is necessary.

Political life in sixteenth-century Sweden was marked by continuous political and military struggles both internationally and domestically. Throughout the century, Swedish kings were engaged in numerous diplomatic disputes and campaigns with Denmark, Poland and the city state of Lübeck. Most of the controversies were related to control of trade in the Baltic Sea area, especially trading rights over Russian products. An additional cause for disputes with Denmark was the question of the right to the Swedish throne after Gustav Vasa had driven the King of the Kalmar Union, Kristian II (1520–1521), out of the country and assumed the throne himself. This had occurred with the economic assistance of Lübeck. On the domestic plane, Gustav Vasa's rule was further burdened with provincial uprisings – sometimes by the nobility, sometimes by the peasants. After Vasa's death, his sons and their heirs battled over the Swedish throne.⁴

Although not personally interested in matters of religion, Gustav Vasa initiated the Reformation in Sweden. Vasa's motives were political and economic. He wanted to break down the political union between the Catholic bishops and the nobility. Gustav Vasa was also in desperate need of funds in order to pay back his debts to Lübeck which had helped him be enthroned as king. In 1527, in the Diet of Västerås the nobility agreed to the king's demand to confiscate church property in favour of both the crown and the nobility. This confiscation was justified by the Lutheran doctrine that all church property was the people's property.

³ Ibid., 53 ff; Gabriela Bjarne Larsson, *Stadgelagstiftning i senmedeltidens Sverige* (Lund: Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin, 1994), 1–31.

⁴ Thomas Lindkvist and Maria Sjöberg, *Det svenska samhället 800–1720: Klerkernas och adelns tid* (Lund: Studentlitteratur, 2009), 205–258; Göran Behre, Lars-Olof Larsson and Eva Österberg, *Sveriges historia 1521–1809: Stormaktsdröm och småstatsrealiteter* (Stockholm: Liber, 2001), 30–73; Jerker Rosén, *Svensk historia I: Tiden före 1718* (Stockholm: Esselte Studium, 1983), 342–351; see also Neil Kent, *A Concise History of Sweden* (Cambridge: Cambridge University Press, 2008), 49 ff.

One of Vasa's closest advisers was a clergyman, Olaus Petri (1493–1552) who had been studying in Wittenberg where he had become acquainted with both Luther and Melanchthon. Petri translated the New Testament into Swedish. In 1531, Gustav Vasa appointed Olaus's brother, Laurentius Petri (1499–1573) as Archbishop of Uppsala. Sweden thus got its first Lutheran archbishop and the break with Rome became evident. From then on, the king was conceived as the head of the Swedish Church. In comparison to their father, the sons of Gustav Vasa were more interested in religious matters such as the creed and the church service. The Swedish Church received its first Lutheran collection of rules governing belief and worship when Laurentius Petri's Church Order (*kyrkoordning*) of 1571 was promulgated in 1572. The confessional, penitence and indulgences were all renounced. Whereas Johan III had attempted to oppose the Reformation, among other things, by attaching his own appendix to the 1571 *kyrkoordning*, his younger brother and Vasa's youngest son Duke Karl took clear action against Catholicism by forbidding the Catholic mass and closing the abbey of Vadstena.⁵

After Johan III died in 1592, his son Sigismund (1593–1599) assumed the throne two years later. Sigismund's mother was Katarina Jagellonica, the daughter of Sigismund II August, King of Poland. Because Sigismund was a Catholic like his mother, Duke Karl together with the Swedish nobility demanded an assurance from the new king that freedom of religion would exist in Sweden according to the Augsburg Confession. It soon became evident that Duke Karl would not let a Catholic king rule Sweden for long. While Sigismund was absent from Sweden, Karl acted as the regent. After a series of armed incidents, Sigismund had to flee Sweden permanently. In 1604, Duke Karl (King Karl IX) was crowned king of Sweden and the threat of Catholicism was ousted for good. The cost, however, was a war between Sweden and Poland.⁶

At the threshold of the sixteenth century, Sweden was economically still in its infancy. Agriculture and animal husbandry were the main sources of livelihood. Foreign trade in practice meant that Sweden exported iron, butter and animal fur in exchange for salt, textiles and hops. In the sixteenth century, trade was not practiced for economic profit but rather to obtain products that were necessary for everyday life.⁷ Cities, or rather

⁵ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 33–38, 63–64; Rosén, *Svensk historia*, 310–317, 330–332, 383–386; see also Kent, *Concise*, 52–57.

⁶ Lindkvist and Sjöberg, *Det svenska samhället 800–1720*, 242–249.

⁷ Ibid. 278–280.

towns, in early modern Sweden were still reasonably underdeveloped. Unlike on the Continent, towns in Sweden never achieved state-like independence. Towards the end of the Kalmar Union, the burghers of Stockholm had gained relative independence because of their close connections with Lübeck. However, Gustav Vasa's rule meant the end for any aspirations of independent political power for Stockholm.⁸ At the beginning of the sixteenth century, still only a few per cent of the population lived in towns. The biggest of these, Stockholm, had only some 6 000 inhabitants. Furthermore, only a small proportion of the town population consisted of burghers, the majority being peasants. In the course of the seventeenth century, more interest was laid on improving Swedish towns. New towns were founded and attention was paid to the town plan and laying the streets. The guild system was advanced in order to control the economic life of the towns. Towns were categorized according to their right to carry on foreign trade. Although most towns were still small on a European scale, they nevertheless improved the Swedish economy by offering new opportunities for livelihood and trade.⁹

Before Gustav Vasa's reign, the administration was based on a mixed system of central administration represented by chatelains and bailiffs on a provincial and local level, on the one hand, and non-hereditary fiefs in the hands of the nobility and bishops, on the other. Gustav Vasa wanted to strengthen the central administration and reforms were thus introduced especially between 1538 and 1543. This period is generally known as the 'German period' (*tyska perioden*). In 1538, Gustav Vasa appointed as Chancellor (*riksråd*) a German courtier, Conrad von Pyhy (d. 1553), who introduced German administrative models in Sweden. As a result, the Chancellery was expanded by establishing a new department for foreign relations. The Privy Council (*riksrådet*) was transformed into a Governmental Council (*regementsråd*), which was to function as a supreme court as well as to be in charge of administration. The Chamber of Finances (*kammaren*) was also re-organized. It was now led by the Lord of the Chamber (*kammarråd*) and was divided into different departments. One was in charge of revenues, e.g., revision and control of bailiffs' accounts, and another to take care of expenses and payments. A War Council was also established. However, these reforms remained only

⁸ Staffan Högberg, *Stockholms historia 1* (Stockholm: Bonnier Fakta, 1981), 99–121.

⁹ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 16–30, 78–80; see also Kent, *Concise*, 69–70.

temporary since the new organs were renounced in 1544 as a response to peasant revolts in Southern Sweden (the so called *Dackefejden*).¹⁰

Although the reformation of central government was temporarily postponed, this did not mean that the new ideas would have been totally given up in subsequent years. During Gustav Vasa's reign, local government had already been reformed by replacing, little by little, the old medieval feudal system with bailiffs. This trend really got off the ground after Vasa's death. More and more bailiffs were appointed and their administrative tasks were increased. This development was linked to the ever growing need of money in order to pay for rearmament. As a consequence, fiefs lost their administrative and fiscal function, which entailed the birth of a new civil service aristocracy and a body of office-holders of common birth.¹¹

Unlike on the Continent, where local administration was often in the hands of the local nobility, the system in Sweden was based on a 'patrimonial relationship' between the king and his bailiffs who were the crown's representatives at the local level and directly responsible to the king. As noted, the tasks of the bailiffs gradually became more numerous. At first, their task was to mobilize political support for the crown's various policies, levy taxes and act as local peacekeepers. Later, bailiffs were given the responsibility of more systematically gathering information on economic resources in different parts of the realm. They were also expected to act as entrepreneurs of a sort in taking care of the crown's business in the field of economy. Finally, bailiffs were entrusted with the task of recruiting, training and equipping men for the army. This sixteenth-century 'Swedish system' of state administration has been argued to have formed the backbone for Sweden's 'Great Power Era' in the seventeenth century. In the 1630s, the direct link between the crown and bailiffs was broken and a new level of regional administration established.¹²

Such were the political, economic and societal circumstances in Sweden roughly in the period 1523 to 1611. Next, we will examine the areas of societal life that were regulated through police ordinances during this period.

¹⁰ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 38–43, 48–53; Rosén, *Svensk historia*, 327–336.

¹¹ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 61–63; Rosén, *Svensk historia*, 361–368.

¹² On the sixteenth-century Swedish system of bailiffs, see Mats Hallenberg, *Kungen, fogdarna och riket* (Stockholm: Brutus Östlings Bokförlag Symposion, 2001).

FIELDS OF REGULATION

From the period between 1523 and 1611, a total of 293 police ordinances were included in the above mentioned four compilations. However, if these ordinances are assessed by the number of various police matters that were regulated in them, the total comes to 416 matters.¹³

As indicated in Chart 1 below, the vast majority of these matters (66 %) concerned the economic system and professions. Next, these ordinances and police matters will be examined category by category in more detail.

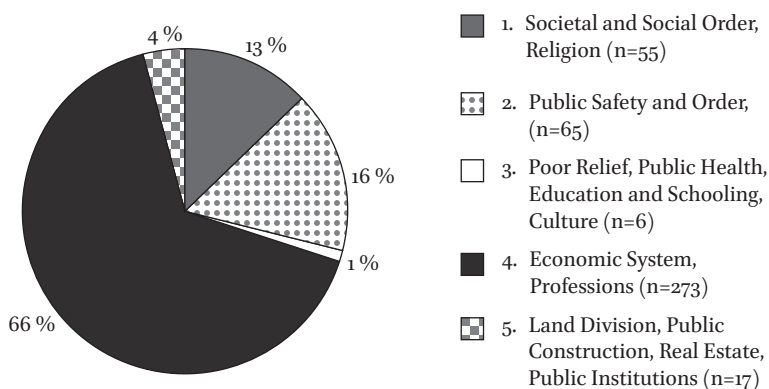


Chart 1: Police Matters 1523–1611

Societal and Social Order, Religion

Matters of societal order, social order and religion formed 13 % of all police matters of the first period. The total number of these matters was 55. This category is further divided into seven sub-categories as indicated in Table 1.

Table 1: Matters of Societal Order, Social Order, Religion 1523–1611 (n=55)

1.1 Matters of Religion	1.2 Population and the Estate System	1.3 Marginal Groups	1.4 Luxury	1.5 Morality, Marriage and Family Life, Sexuality	1.6 Guardianship	1.7 Succession
12	25	6	3	6	1	2

¹³ The Schmedeman compilation contains 12 ordinances that are also included in the Stiernman compilation. These ordinances are indicated only once in Chart 1.

Matters of Religion

The number of matters of religion in the four compilations is quite low. Only twelve ordinances dealt with religion.¹⁴ The majority of ordinances on religion in the compilations were related to the Swedish Reformation. The earliest of these was an *ordinantie* from 1528 by King Gustav Vasa in which some jurisdictional questions were solved. For instance, the ordinance prescribed that priests should be tried in secular district courts like the rest of the people except in matters concerning their office in which case jurisdiction still belonged to the bishops. Furthermore, if a priest wrongly excommunicated someone from the Church, the matter belonged to the Church's jurisdiction and the fine was to be paid to the bishop "as it is stated in the chapter on ecclesiastical issues [of the Swedish law]". In addition, the ordinance included provisions on mendicants.¹⁵

A few ordinances dealt with orthodoxy and denomination. For instance, in an *edict* from 1563, King Erik XIV ordained that all heresy should be eradicated. He had learned that "some strangers have ventured themselves into publicly and openly disseminating and teaching the ordinary people some strange ideas that are not based on the holy prophetic and apostolic writings."¹⁶ The word 'strangers' in the edict most probably refers to Calvinists. Unlike his father, Erik XIV took a sceptical attitude towards Calvinists especially after they had started to demand the right to establish their own Church and have their own service. Two years later, in 1565, Erik gave a final blow to the attempts of the Calvinists, and soon their leading figures left the country.¹⁷

An important ordinance for the consolidation of the Evangelic-Lutheran Church in Sweden was a decree (*beslut*) given by Duke Karl (later Karl IX) together with the Privy Council and the clergy in the City of Uppsala in 1593. The decree stated that "nothing is more useful and advantageous to a kingdom than amity and unity, especially in religion."¹⁸ For this purpose,

¹⁴ However, based on the manuscript of the register of all Swedish police ordinances issued between 1521 and 1809 we know that royal ordinances on matters of religion were more numerous than this. According to the manuscript, between 1523 and 1611 a total of 37 ordinances concerning matters of religion were issued. This data was kindly provided by Karl Härter.

¹⁵ Schmedeman, *Justitiæ och Executions-Ährennder*, 3–5. The reference to the chapter on ecclesiastical issues is most probably to provincial law code of Uppland. See Åke Holmbäck and Elias Wessén, trans., *Svenska Landskapslagar. Första serien: Östgötalagen och Upplandslagen* (Stockholm: Hugo Gebers Förlag, 1933), UL Kk:8.

¹⁶ von Stiernman, *Religion*, 1.

¹⁷ Åke Andrén, *Sveriges kyrkohistoria 3: Reformationstid* (Stockholm: Verbum, 1999), 152.

¹⁸ von Stiernman, *Religion*, 4–5.

the Augsburg Confession was accepted as the basis for religion in Sweden. Furthermore, the Duke and the members of the Council declared that they had accepted Laurentius Petri's Church Order of 1572.¹⁹ In 1595, another decree initiated by Duke Karl prescribed that all Catholic priests should leave the realm in six weeks and all rooms for Catholic worship, including Vadstena Abbey, should be closed down. Any practice that would go against the Augsburg Confession was not to be tolerated.²⁰

Some ordinances on religious matters dealt with blasphemy,²¹ keeping the Sabbath,²² "church peace" (*kyrkiofred*),²³ obligatory intercession days²⁴ and penance (*kyrkioplicht*).²⁵

Population and the Estate System

Matters related to population and the estate system formed the biggest sub-group within the first main category, i.e., societal and social order, and religion. A total of 25 matters can be placed among this sub-group.

Firstly, ordinances that dealt with city privileges and taxation belong to this sub-group. For instance, in 1524, King Gustav Vasa confirmed the old privileges of the Town of Jönköping because it had been "of great benefit to the surrounding countryside in times of scarcity."²⁶ The following year, the burghers of the Town of Åbo (Turku) were taken under royal protection and new privileges were issued to the town.²⁷ In 1528, Gustav Vasa stated by letter that an agreement had been reached between him and merchants called *birkarlar* on the yearly tax that they would have to pay for their trading rights with the Lappish people.²⁸ In a letter from 1533, the king granted the Town of Lödöse a two year exemption from taxes so that

¹⁹ von Stiernman, *Religion*, 7; see also Andrén, *Sveriges kyrkohistoria* 3, 212–222.

²⁰ von Stiernman, *Religion*, 22–24; see also Andrén, *Sveriges kyrkohistoria* 3, 228.

²¹ von Stiernman, *Religion*, 25–27; von Stiernman, *Commerce, Politie och Oeconomie... I*, 155–157.

²² von Stiernman, *Religion*, 29–31; von Stiernman, *Commerce, Politie och Oeconomie... I*, 58.

²³ Schmedeman, *Justitiæ och Executions-Åhreder*, 29–31. The term 'church peace' already featured in medieval Swedish law and it meant that churches and churchyards were placed under special protection. All kinds of disturbances and crime during service or in the churchyard were strictly forbidden and punishable by fine or corporal punishments.

²⁴ von Stiernman, *Commerce, Politie och Oeconomie... I*, 415–417.

²⁵ Schmedeman, *Justitiæ och Executions-Åhreder*, 83–84.

²⁶ von Stiernman, *Commerce, Politie och Oeconomie... I*, 9.

²⁷ *Ibid.*, 10–13.

²⁸ *Ibid.*, 16–17. A contract on taxes was also made with the City of Raumo (Rauma) in 1539, see p. 57.

it could fortify its moat and berms.²⁹ One royal ordinance was also issued in order to remind the burghers of Stockholm of their “duty to pay taxes to the town” (*stadzens tunge*).³⁰ Furthermore, a couple of ordinances contained provisions on loyalty and oaths of allegiance to the king.³¹

A handful of ordinances dealt with internal migration, immigration and emigration. The first group included two ordinances which contained a request that merchants in the countryside should move to towns so that these would not become desolate and no illegal trade would be exercised in the countryside.³² In 1585, a *stadga* was given to the Town of Stockholm in which the king reminded the authorities that foreigners were allowed to stay in the realm only for six weeks.³³ Later in the century, in 1583, 1585 and 1591, three ordinances were given in order to prohibit emigration to enemy territories. Emigration was only allowed to areas under Swedish rule.³⁴

Marginal Groups

In the material only six ordinances concerned marginal groups. The number would suggest that vagrancy was not (yet) that big a societal problem in sixteenth-century Sweden. In fact, statistical data from other European countries supports this assumption. It was not until the late seventeenth century and the eighteenth century when vagrancy amounted to a serious problem in Continental Europe. It was also then that the majority of all police ordinances on the matter were issued.³⁵

The first ordinance on vagrancy in the material is from 1539, namely a *patent* in which King Gustav Vasa encouraged the ordinary people to keep an eye on all strange and useless groups that wandered into the country. If such groups “were found in spreading lies among common people in the purpose of causing corruption in the realm, [...] they were to be apprehended and taken to the hands of the royal bailiffs.”³⁶ Another ordinance from the following year prescribed that no loose man or hired man should

²⁹ Ibid., 32.

³⁰ Ibid., 340.

³¹ Schmedeman, *Justitiæ och Executions-Ähreder*, 16, 35–36.

³² von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 1, 45, 55.

³³ Ibid., 340.

³⁴ Ibid., 322–323, 337–338, 374–376.

³⁵ Robert Jütte, *Poverty and Deviance in Early Modern Europe* (Cambridge: Cambridge University Press, 1994), 148–150; Härter, *Policey*, 989, 1007.

³⁶ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 52.

wander around the countryside offering temporary labour. Instead, they should seek their way to permanent, one year service or to the crown's mines. Those who failed to do so would suffer punishment "according to Swedish law" (*efter som Sweriges lagh utwijser*). However, tailors, shoemakers, skinners, blacksmiths and carpenters were exempt from the duty.³⁷ Another ordinance, also from 1540, stated that many strangers were wandering around the realm causing trouble among the common people with their lies and scams. Therefore the king had seen fit with his Council to designate the roads along which all journeymen should travel in order to know what type of folk entered and left the country.³⁸ In 1555, the king informed his bailiffs that they should pay attention to all persons crossing the borders of the realm. Furthermore, all merchants were to travel only on designated roads and carry passports issued by the town that they came from.³⁹

These ordinances are good examples of how vagrancy was understood and treated in early modern Europe. First of all, not all wandering people were considered vagrants. Those who practiced a profession that required them to travel and offer their services in the countryside (in German so-called *fahrende Leute*) were not considered as vagrants. Vagrants were those who were fit to work but did not do so. It was usually considered by contemporaries that unemployment was self-imposed.⁴⁰ Secondly, measures of control adopted in Sweden also adhered to continental examples. Border control, encouraging the people to denounce or even apprehend vagrants, determining roads for travel, and the passport system were all measures used to control vagrants in early modern German territorial states.⁴¹

Luxury

Three ordinances included provisions on luxury. A statute from 1546 ordained that each man in villages as well as each burgher in the towns should wear clothes

³⁷ Ibid., 59.

³⁸ Ibid., 61.

³⁹ Ibid., 143. Similar kinds of ordinances were given in 1605 and 1606. See pp. 496–497, 506–509.

⁴⁰ Jütte, *Poverty*, 146–148; Härter, *Policey*, 987–1003.

⁴¹ Härter, *Policey*, 1003–1062.

according to his status [...] like their fathers and parents before them, because pretentiousness and pride are not at all necessary but rather likely to make God angry and be ruinous for the common good.⁴²

In 1585, King Johan III issued an open letter to the Mayor and the Council of the Town of Stockholm on clothing of women of non-noble birth. Priests should preach from their pulpits that no women of common birth should be allowed to wear velvet hats, jackets or skirts. However, women of foreign origin could be dressed according to the customs of their fatherland. Furthermore, brides of burghers should not borrow jewellery but instead should be content with what they themselves possess.⁴³ Finally, in 1589, Johan III issued an Ordinance on the Abolition of Various Disorders and Abundances with Burghers' Clothing, in Weddings, Christenings, Church-Goings, as well as in Funerals and with Bridal Gifts.⁴⁴ The king complained that abundance with clothing had led to the impoverishment of many bourgeois women and raised the price of silk. Women had also purchased jewels from foreign merchants in the belief that they were buying precious stones, whereas in many cases it had later turned out that they had paid a high price for glassware and crystal. Therefore the city commissioners (*stadztienerner*) were to give a warning to women who did not abide by the ordinance and if this was not enough, the provost could remove all excessive hats off the heads of bourgeois women. Furthermore, the ordinance reminded that Swedish law set limits on how many guests could be invited to the festivities listed in the title of the ordinance.⁴⁵

These Swedish luxury ordinances, too, were typical of luxury ordinances in early modern Europe. Ever since the Middle Ages, abundance in clothing, festivities, drinking and eating had been striven against by prohibitions and restrictions. Motives for regulation were manifold: religious-ethical, policiary, fiscal and economic. Especially during the sixteenth century, when the number of luxury ordinances began to increase, religious-ethical and economic motives dominated. Each member of society should be dressed according to their *Rang und Stand*. Furthermore, it was thought that an individual merchant's economic ruin not only affected

⁴² von Stiernman, *Commerce, Politie och Oeconomie*... I, 74–75.

⁴³ *Ibid.*, 338–339.

⁴⁴ *Ibid.*, 354–356.

⁴⁵ See Åke Holmbäck and Elias Wessén, trans., *Magnus Erikssons Landslag: I Nusvensk Tolkning* (Stockholm: Institut för rättshistorisk forskning Grundat av Gustav Olin och Carin Olin, 1962), G:7; C. J. Schlyter, ed., *Konung Christoffers Landslag. Samling af Sweriges Gamla Lagar. Tofte Bandet* (Lund: 1869), G:8.

him personally but was detrimental to the town. The individual was seen as an integral part of the whole.⁴⁶

Morality, Marriage and Family Life, Sexuality

Six ordinances incorporated provisions on matters of marriage and sexuality. The first was a direct consequence of the Reformation. Namely, the ordinance of 1528 (already mentioned earlier) stated that sleeping with one's own 'betrothed woman' was no longer considered to be a crime.⁴⁷ According to the new doctrine, sex between a betrothed couple was comparable to marital sex. This view also corresponded well with notions of customary law.⁴⁸

Four ordinances dealt with adultery. Gustav Vasa and his Council gave a Resolution in 1538 in which they more or less confirmed the medieval stand on adultery, namely that a wife who had committed adultery was to lose her morning gift and the husband had a right to demand the death penalty for both the adulterous wife and the man (*hoorkaarten*) or to settle for fines.⁴⁹ King Erik XIV's Ordinance for the Royal Court (*hofordning*) of 1560 forbade sexual intercourse between a married man and an unmarried woman (so called 'single adultery'). The punishment for first- and second-time offenders was "the tower with water and bread as well as a forty mark fine". A third time offender would be expelled from the court.⁵⁰ King Johan III's *gårdz-rätt*⁵¹ took a more stringent stance towards adultery. A first-time offender would get the tower and a forty mark fine. However, second-time offenders would be sentenced to death. This was also the case if a married man committed adultery with a married woman (so called 'double adultery').⁵² In 1577, King Johan III also gave a general ordinance on single and double adultery. The punishments were the same as in his earlier *gårdz-rätt*.⁵³

⁴⁶ Michael Stolleis, *Pecunia Nervus Rerum: Zur Staatsfinanzierung der frühen Neuzeit* (Frankfurt am Main: Vitoria Klosterman, 1983), 9–34.

⁴⁷ Schmedeman, *Justitiæ och Executions-Åhreder*, 4.

⁴⁸ See Mia Korpiola, *Between Betrothal and Bedding: Marriage Formation in Sweden 1200–1600* (Leiden – Boston: Brill, 2009), 351–356.

⁴⁹ Schmedeman, *Justitiæ och Executions-Åhreder*, 8–9. On Swedish medieval provisions on adultery, see Holmbäck and Wessén, *Svenska Landskapslagar*, ÖgI Kk:15; UL Kk:15.

⁵⁰ Schmedeman, *Justitiæ och Executions-Åhreder*, 39–40.

⁵¹ The term *gårdzrätt* (or *gårdzrett*) referred to an ensemble of provisions on punishments for crimes committed against the king or royal authorities as well as for crimes committed by the nobility, members of the court or royal authorities who were working in royal castles, manors or anywhere else in the realm.

⁵² *Ibid.*, 46.

⁵³ *Ibid.*, 67.

These provisions on adultery must be placed in a wider context. Firstly, they attest to a shift in jurisdiction in sexual crimes in early modern Sweden. The medieval provincial law codes granted the Church the right to prosecute and fine adulterers. However, from the late Middle Ages onwards, the secular power had already assumed part of that right and had made adultery a mixed cause, i.e., a crime against both Church and crown. The Swedish Reformation naturally strengthened this trend. Secondly, the provisions on adultery also bear witness to a tightening of control over sexual morality in late medieval and early modern Sweden. At least on the level of written law recidivist adulterers could no longer get away with fines; instead they faced the death penalty.⁵⁴

Developments in Sweden followed developments in German territories. During the course of the sixteenth century, control of sexuality became more efficient as norms on deviant sexual behaviour became more diverse. Old categories of sexual crime were refined and new ones defined. Police ordinances had an important role to play in this development. The early modern states increasingly took over the task of controlling sexuality from the Church even though the latter did not entirely lose its importance in this field. This does not mean that the state and the Church would always have worked seamlessly together in order to achieve a common goal; jurisdictional disputes were common into the first half of the eighteenth century. It would also be a mistake to assume that increased control of sexuality would simply have meant a clash between 'official' sexual morality and conceptions of sexuality held by the people. The people also knew how to take advantage of the norms and the enforcement apparatus in order to control their family members or hirelings on the local level. As with the luxury ordinances, motives for controlling sexuality were multifaceted. Not only did religious-moral arguments occur, but also aspects related to population policy were presented. For instance, from the point of view of the authorities venereal diseases were seen as a threat to the overall strength of the population.⁵⁵

⁵⁴ See e.g. Mia Korpiola, "Rethinking Incest and Heinous Sexual Crime: Changing Boundaries of Secular and Ecclesiastical Jurisdiction in Late Medieval Sweden," in *Boundaries of the Law: Geography, Gender and Jurisdiction in Medieval and Early Modern Europe*, ed. Anthony Musson (Hants: Ashgate, 2005), 110–113. On the tightening of the control of sexuality in early modern Finland (as a part of the Swedish realm), see Seppo Aalto, *Kirkko ja kruunu siveellisyyden vartijoina: Seksuaalirikollisuus, esivalta ja yhteisö Porvoon kihlakunnassa 1621–1700* (Helsinki: Suomen historiallinen seura, 1996).

⁵⁵ Härter, *Policey*, 820–833. On the ways people at the local level 'exploited' the legal system in control of sexuality in seventeenth-century Finland see Aalto, *Kirkko ja kruunu*, 213–218.

Guardianship

Only one ordinance addressed the issue of guardianship. A *stadga* from 1598 ordained that no one may buy, exchange, or take as a pledge property from a ward (*öwfermagi*). This also included guardians (*barnemåhlmän*) whose duty was to see that the inheritance “increases and not lessens.”⁵⁶ The Law of the Land included provisions on who were to be regarded as lawful guardians of the inheritance of minors.⁵⁷

Succession

The Reformation changed the societal status of the clergy as priests came to be allowed to get married. This entailed practical problems that needed to be solved concerning the succession of priests. An ordinance of 1559 included provisions on how to divide the movables of the parsonage (*pre-stebohlet*) between the widow and the heirs, on the one hand, and the priest’s successor in office, on the other.⁵⁸ In 1594, another ordinance was issued on the inheritance of priests. The ordinance prescribed that in the countryside all inheritance should be divided according to the Law of the Land and in the cities according to the Town Law. The ordinance was a response to a resolution on the inheritance rights of priests’ widows made by the Chapter of Skara. Duke Karl stated in the ordinance that because the resolution was made “without the consideration and consent of the Authority, it can have neither force nor existence.”⁵⁹

Public Safety and Order

Matters of public safety and order formed 16 % of all police matters of the first research period. The total number of these matters was 65. This category is further divided into four sub-categories as indicated in Table 2.

Table 2: Matters of Public Safety and Order 1523–1611 (n=65)

2.1 Amusements and Frivolity	2.2 Public Safety and Criminality	2.3 Censorship and Printing	2.4 Administration and Judiciary
4	37	–	24

⁵⁶ Schmedeman, *Justitiæ och Executions-Åhreder*, 115–116.

⁵⁷ See Schlyter, *Konung Christoffers Landslag*, G:15, 20–22.

⁵⁸ Schmedeman, *Justitiæ och Executions-Åhreder*, 32–34.

⁵⁹ *Ibid.*, 110.

Amusements and Frivolity

The four ordinances that fell into this category mainly regulated drunkenness. A *mandat* from 1546 stated that mayors and town councils in the towns had been too easily granting burgher rights to “loose people” (*löse sällskap*) who crowded the houses making them into whorehouses where all kinds of idleness, drunkenness and indecency took place. Instead of being granted burgher rights, these people should be sent to the countryside where they ought to find work as farmhands or maids.⁶⁰ The three other provisions on drunkenness were included in separate ordinances on the Royal Court and on *gårdzrätt*. It was forbidden for members of the Court to appear drunk in streets and public places. The first time would earn the offender “provost iron” (*profossiärn*) and the second would result in expulsion from the Court.⁶¹ It was also forbidden to get drunk or gamble in the castle hall.⁶²

Regulation of drinking was of course closely related to control of luxury. The argumentation against excessive drinking was manifold. In sixteenth-century German territories, restrictions on drinking were imposed because drinking caused loss of personal finances, deprived the wife and the children of bread, inflicted various maladies, and so on. Excessive drinking was combated by policiary measures (e.g. restrictions on serving and opening hours), criminal law punishments, and also private law provisions (e.g. drunkenness as a legal ground for divorce).⁶³ However, the motive for control of frivolity and drunkenness was not only moral-religious and economic. It was also important to control these vices from the policiary point of view; prevention of idleness and drunkenness also entailed prevention of violent and sexual crime. Measured by the number of ordinances, in Germany the policiary control of amusements and frivolity witnessed its peak during the latter half of the eighteenth-century.⁶⁴

Public Safety and Criminality

Early modern police ordinances were also issued in order to control public safety and criminality – a task that still belongs to the police authorities in today’s modern societies.

⁶⁰ von Stiernman, *Commerce, Politie och Oeconomie* . . . I, 86.

⁶¹ Schmedeman, *Justitiæ och Executions-Ähren*, 39, 45.

⁶² *Ibid.*, 101.

⁶³ Stolleis, *Pecunia Nervus Rerum*, 22–31.

⁶⁴ Härter, *Policey*, 735–739, 739 ff.

As Karl Härter has argued, research on the history of criminality has previously focused mainly on criminal law and control of serious crime. However, a full picture of social control in the early modern period also requires taking into account the numerous police ordinances and their implementation. In particular, issuing police ordinances in the field of criminal law was a way to expand, supplement and refine the provisions of early modern criminal codes. This brought efficiency and flexibility to the often rigid norms of criminal law by introducing new criminalization as well as 'extraordinary punishments' (*poena extraordinaria*).⁶⁵

Unlike the societies of today, an important issue in early modern times in Europe was hired troops. In this regard Sweden was no exception. So, a *patent* given by King Gustav Vasa in 1539 stated that the king encouraged the common people to report all the trouble that hired soldiers (*landzknecter*) caused in the countryside.⁶⁶ Ordinances were also given on the status and service duties of hired soldiers. Soldiers were not allowed to practice trade in the cities or in the countryside, or be in the service of other rulers. Neglect of one's watch, desertion and rebellion were all punished by death.⁶⁷ The empirical material also included an extract of an ordinance on recruiting people into the army. The ordinance stated, among other things, that town burghers should only keep the absolutely necessary number of hired men and the rest should be recruited into the army.⁶⁸ It was also important for the maintenance of public security that people were not allowed to carry arms as they pleased. Carrying arms in court sessions or church was strictly forbidden.⁶⁹

Eight ordinances dealt with crimes of different sorts. For instance, one ordinance reminded the common people that God would avenge all the murder and manslaughter committed in the realm.⁷⁰ Manslaughter and assaults should be punished according to the Law of the Land.⁷¹ Moreover,

⁶⁵ Karl Härter, "Social Control and the Enforcement of Police-Ordinances in Early Modern Criminal Procedure," in *Institutionen, Instrumente und Akteure sozialer Kontrolle und Disziplinierung im frühneuzeitlichen Europa/Institutions, Instruments and Agents of Social Control and Discipline in Early Modern Europe*, ed. Heinz Schilling (Frankfurt am Main: Vittorio Klostermann, 1999); Härter, *Policey*, 1–12, 123–158. On criminality and social control in medieval and early modern Swedish towns, see Eva Österberg and Dag Lindström, *Crime and Social Control in Medieval and Early Modern Swedish Towns* (Uppsala: Acta Universitatis Upsaliensis, 1988).

⁶⁶ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 52.

⁶⁷ Schmedeman, *Justitiæ och Executions-Åhreder*, 18, 23–27, 36–38, 44–45.

⁶⁸ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 267.

⁶⁹ Schmedeman, *Justitiæ och Executions-Åhreder*, 6.

⁷⁰ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 155–156.

⁷¹ Schmedeman, *Justitiæ och Executions-Åhreder*, 9.

all kinds of disloyalty and verbal or physical assaults on the king or his person were punishable by death and the loss of half of the perpetrator's property.⁷² Cursing one's own father or mother would earn a six mark fine, a whipping and confession. Physical assault on one's parents should be punished as prescribed by the Law of the Land, i.e., by fines. In addition to fines, the offender was to receive a whipping and make a confession. The ordinances also stated that everyone should honour their father and mother "as it stood in God's ten commandments".⁷³ Duke Karl's *gårdz-rätt* also included a list of crimes and their punishments.⁷⁴ Destruction of other people's property was punishable by fines based on the value of the property.⁷⁵ Finally, a couple of ordinances incorporated provisions on slander. No nobleman was allowed to insult the king's officials and servants with "blows, threats or useless words".⁷⁶ Secondly, anyone who spoke ill of his superior (*öfwerhet*) deserved to be branded on the forehead and both of his ears cut off.⁷⁷

Almost half of the ordinances in this particular sub-category dealt with unlawful demands for "transportation" (*skiutsningar, skiutsfärder*) and/or "hospitality" (*giästning*). A total of twenty ordinances regulated this matter.⁷⁸ Even though these ordinances touched upon transportation and hospitality (Germ. *Bewirtung*) and they could therefore have been placed in categories 4.6 and 5.2, in most of the ordinances the issue was not really transportation or hospitality *per se*. Ever since the Middle Ages, it was considered in Sweden that the people had a duty to offer the king or his representatives both means of transportation (mainly horses) and hospitality (accommodation and food) without compensation.⁷⁹ However, this royal prerogative was widely abused by the nobility, who strained the

⁷² von Stiernman, *Commerce, Politie och Oeconomie... I*, 178–180. Similar kinds of provision on treason can already be found from medieval provincial law codes. See e.g. Mia Korpiola, "Swedish medieval and early modern treason legislation: A consequence of peasant uprisings?," in *Northern Revolts: Medieval and Early Modern Peasant Unrest in the Nordic Countries*, ed. Kimmo Katajala (Helsinki: Finnish Literary Society, 2004).

⁷³ Schmedeman, *Justitiæ och Executions-Ährennder*, 12.

⁷⁴ *Ibid.*, 95–102.

⁷⁵ *Ibid.*, 12–13.

⁷⁶ *Ibid.*, 65–66.

⁷⁷ *Ibid.*, 131.

⁷⁸ von Stiernman, *Commerce, Politie och Oeconomie... I*, 39, 146–147, 175–178, 204–206, 219–222, 237–239, 247–249, 256–258, 264–267, 292–295, 295–298, 326–330, 331–336, 347–348, 431–432, 439–442, 470–471, 476–477, 478–481, 556–557.

⁷⁹ The concept of hospitality had a slightly different meaning in early modern England, see Felicity Heal, "The Idea of Hospitality in Early Modern England," *Past and Present* 102 (1984).

people with unlawful demands for transportation and hospitality. From the very beginning, the kings tried to put an end to this abuse by criminalizing it. We learn this from several medieval statutes (*stadgor*) and provincial codes (*landskapslagar*) which included provisions on the matter.⁸⁰ The contents remained the same in sixteenth-century ordinances: to prevent the nobility from making illegal demands for transportation and hospitality. It can therefore be argued that these ordinances were primarily about public security rather than transportation or hospitality. That is also why these ordinances have been placed in this particular sub-category (2.2).⁸¹

The frequent recurrence of ordinances on unlawful demands for transportation and hospitality suggest that the problem was real and persistent. As already noted, the basic contents remained more or less the same in all of the ordinances throughout the sixteenth century: the ordinances included bans on unlawful demands and orders to pay for transportation as well as accommodation and food according to fixed tariffs. However, some 'technical' development occurred in the course of the century. For instance, in a *patent* from 1580, King Johan III stated that he had ordered a special quadrangular seal to be made in order to prevent forgery of travel documents that had taken place in the past.⁸² Apparently the outcome was not as hoped since the king renewed the patent four years later in 1584.⁸³ Later the same year, the king asked all expired travel documents to be sent to the Royal Chancellery so that they might not be misused.⁸⁴ At the beginning of the seventeenth century, King Karl IX issued three ordinances in which he gave peasants permission to apprehend all wrongdoers and take them to the nearest castle where they would be duly punished.⁸⁵

⁸⁰ See Bjarne Larsson, *Stadgelagstifning*.

⁸¹ However, attempts to forbid unlawful demands for transportation and hospitality went hand in hand with development of the system of inns and taverns. Many ordinances also included provisions on inns and taverns as well as on transportation. In this study, these particular provisions have been treated as separate police matters and placed in sub-categories 4.6 and 5.2. On the history of transportation and hospitality in Sweden and Finland, see J. K. Paasikivi, *Kyydinpito ja kestikievarilaitos Suomen lain mukaan* (Helsinki: Weilin & Göös, 1901).

⁸² von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 296.

⁸³ *Ibid.*, 326–330.

⁸⁴ *Ibid.*, 335.

⁸⁵ *Ibid.*, 477, 480, 557.

Administration and Judiciary

Matters of administration and judiciary formed the largest sub-group of the second thematic main group. A total of 24 ordinances are subsumed into this sub-group. The earliest of these was an *ordinantie* of 1528 by King Gustav Vasa which regulated secular jurisdictional issues. It ordered, among other things, that bailiffs should ensure that all “fines that used to be paid to the bishop” (*biscopz saköre*) should now instead be paid to the king. Special reference was made to the crimes of pre-marital sex, incest and bestiality.⁸⁶ The *ordinantie* included an explicit reference to an earlier ordinance that the king had given the same year in which he ordained that in future all fines should be paid to the king. Both of these royal ordinances were a continuation and a clarification of the so called *Västerås recess*, drawn up in the assembly of representatives of the estates convened in the Town of Västerås in 1527. It was then agreed, among other things, that the church’s excessive property would be used to the benefit of the crown and that the nobility would regain property it had lost to the Church after 1454.⁸⁷ A *placat* from January 1549 stated that during the same winter a “royal inquest” (*konungz räffst*) would convene in every judicial district (*lagsagu*) so that subjects would get their disputes properly tried, especially in cases that could not be tried in district courts.⁸⁸

Jurisdictional provisions were also included in ordinances on royal *gårdzrätt*. If the *gårdzrätt* did not include a particular punishment for a particular crime, royal officials were to be punished according to the general Law of the Land. However, all death penalties were to be submitted to the king.⁸⁹

Another problem that the kings tried to combat with royal police ordinances was mitigation of punishments that took place outside the district courts. In 1549, Gustav Vasa gave a *placat* for the provinces of Hälsingland and Gästrikland in which he ordained that no cases that belonged to the courts should be taken to and reconciled by the bailiffs.⁹⁰ In 1563, King Erik XIV gave an Ordinance on Serious Crimes (*patent om högmåls saker*). The king ordained that all serious crime should be punished by the right punishments provided in the law. No member of the nobility or king’s

⁸⁶ Schmedeman, *Justitiæ och Executions-Ähren*, 3–5.

⁸⁷ Andrén, *Sveriges kyrkohistoria* 3, 44–58.

⁸⁸ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 1017–1018.

⁸⁹ Schmedeman, *Justitiæ och Executions-Ähren*, 15, 43, 95.

⁹⁰ *Ibid.*, 28–29.

official was allowed to take money or silver in exchange for a more lenient punishment. Especially crimes such as treason, murder, adultery, rape and bestiality should all be tried in the courts and punished accordingly. This would not, however, affect the king's prerogative to grant a pardon "to whomever he pleased".⁹¹ An ordinance with the same contents was issued in 1578; no count or baron was allowed to impose fines for serious crimes without the king's knowledge.⁹²

An interesting ordinance is a confirmation (*stadfästelse*) of 1608 that was given for the old Law of the Land from 1442. The idea behind the confirmation was to strengthen the status of the Law of the Land which had not before existed in printed form. The confirmation stated that "from this day on, all decisions should be based on this, King Kristoffer's confirmed and printed law book."⁹³ The ordinance also decreed that the "chapter on ecclesiastical issues" (*kyrckio balken*) that was included in the medieval provincial codes was not to be considered as valid law until it was revised and all "papal fallacies were excluded".⁹⁴ Furthermore, it was ordained that punishment for all serious crimes should be given according to "God's law", i.e. the Biblical law. In relation to this, an appendix was incorporated in the new law book in which blasphemy, disobedience and assault against parents, manslaughter, adultery, usury and perjury were regulated. The appendix was meant to be only a temporary solution until revision of the Chapter on ecclesiastical issues. The strict letter of the appendix was never put into practice in full.⁹⁵

Some ordinances dealt with the correct stages of appeal within the court system. Duke Karl's *patent* from 1593 stated that those who were dissatisfied with judgments given by the district courts or town courts, i.e., courts of first instance, should first appeal (*laghwädie*) to the courts of appeal, either to the "lawspeaker" (*laghmannen*) or to the provincial court (*landzting*). If one still was not happy with the outcome, only then was it possible to appeal to the king and his Council. In this connection, it was further stated that no judge could act as a judge both in a court of first instance and a court of second instance in the same district.⁹⁶ This *patent* was invoked five years later in an ordinance on legal proceedings.⁹⁷ In 1602,

⁹¹ Ibid., 47–49.

⁹² Ibid., 68–70.

⁹³ Ibid., 128.

⁹⁴ Ibid., 128.

⁹⁵ See Jan Eric Almquist, "Karl IX och den mosaiska rätten," *Lychnos* (1942).

⁹⁶ Schmedeman, *Justitiæ och Executions-Åhreder*, 103–104, 107–108.

⁹⁷ Ibid., 112–116.

an ordinance was given on “rectificative court sessions” (*rättare-ting*) that were to be held yearly in the City of Uppsala so that the inhabitants could appeal against lower court judgments. A judge that had presided as judge in a case in the lower courts could not act as judge in the *rättare-ting*.⁹⁸

These kinds of jurisdictional ordinances bear witness to the kings’ aspiration to claim jurisdiction over criminal matters and to build up and strengthen the state monopoly on punishment. It was in the interest of the crown to put an end to all administration of justice that took place outside the courts. Motives were both political and economic; any decision or settlement outside the courts not only meant loss of the crown’s fine revenues but also constituted a threat to public order, for instance in the case of arbitrary decisions and unjust punishments. Therefore questions of administration of justice and of jurisdiction were an important part of early modern *politie*.

Ordinances of an administrative nature were given to various royal authorities. In 1555, an ordinance was given that forbade bailiffs to practice trade. Instead they were to keep a keen eye on borders, travelling merchants, and trade.⁹⁹ A couple of ordinances were also issued in which the power to control trade and customs was vested in royal authorities.¹⁰⁰ Ordinances on the *gårdzrätt* included provisions on misconduct in office.¹⁰¹ Finally, one ordinance encouraged people to report to the king all misconduct which the bailiffs had themselves been guilty of.¹⁰² Furthermore, those who accommodated “magicians and jesters” (*trullkarlar och gycklare*) and did not report them to the local pastor or bailiff made themselves punishable by a forty mark fine.¹⁰³

Poor Relief, Public Health, Education and Schooling, Culture

Matters of poor relief, public health, education and schooling, and culture formed only 1 % of all police matters regulated during the period between 1523 and 1611. The total number of these matters was six. This category is further divided into three sub-categories as indicated in Table 3.

⁹⁸ Ibid., 118–119.

⁹⁹ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 143–144.

¹⁰⁰ Ibid., 259–261, 268–272.

¹⁰¹ Schmedeman, *Justitiæ och Executions-Åhreder*, 44, 59–63,

¹⁰² von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 52–53.

¹⁰³ Schmedeman, *Justitiæ och Executions-Åhreder*, 31.

Table 3: Matters of Poor Relief, Public Health, Education and Schooling, and Culture 1523–1611 (n=6)

3.1 Public Health	3.2 Poor Relief	3.3 Education and Schooling, and Culture
2	3	1

Public Health

Two ordinances dealt with public health. The first one was a *mandat* given by King Gustav Vasa in 1557 for Stockholm. The mandate stated that the burgomaster and the town council must not allow sick people to lie in the streets making the air worse and causing many diseases in the town. Instead, all paralysed people should be taken to a hospital (*spetalen*) where they should be cared for and fed. The king also ordered that all poor people should be taken to a hospital in Danviken as soon as it was erected. Furthermore, the mandate designated particular areas where all burials should take place. These areas were to be compounded so that “pigs and other irrational creatures were kept away.”¹⁰⁴ The second ordinance on public health was a response by King Johan III to the Governors of Stockholm (*ståthollarne*) concerning pestilence. In order to prevent the plague from spreading, all infected houses were to be locked and their inhabitants removed from the town for a couple of months. No one was allowed to touch the clothes or goods of the deceased. The king also wanted information about other infected cities and areas as well as about the number and the status of the persons who had died of this particular disease.¹⁰⁵

‘Health police’ (Germ. *Gesundheitspolicey*, Fr. *police de la santé*) formed an important part of the police of early modern cities in Europe. In particular, the consequences of pestilences were harmful not only to the population in the cities and in the countryside but also to trade and the food supply. During the latter half of the sixteenth century and early seventeenth century, French cities such as Lyons and Marseilles got their first *bureaux de la santé*. These bureaux had jurisdiction in matters concerning public health. They had the right to issue ordinances and impose fines

¹⁰⁴ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 154. On the early history of the hospital in Danviken, see Eva Eggeby, *Vandringsman, här ser du en avmålning av världen: Vårdade, vård och ekonomi på Danvikens dårhus 1750–1861* (Stockholm: Acta Universitatis Stockholmiensis, 1996), 21–39.

¹⁰⁵ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 218–219.

for those who would not abide by the ordinances. Measures for controlling pestilence were manifold: quarantines were ordered, health passports issued, fairs postponed, and so on. During times of large scale crisis, the central government also took active measures against pestilences.¹⁰⁶

Poor Relief

Poor relief was of course closely related to questions of public health and nursing the sick as the early modern hospitals took care of both tasks. Source material included three ordinances on poor relief. The earliest of these was an ordinance from 1528 in which the king told bailiffs to keep an eye on all beggars who wandered around the country so that they would not “spread lies”.¹⁰⁷ In 1532, the king issued a letter to the Town of Vadstena. The town had for some time had two hospitals, or “sick rooms” (*siukastughor*); one in the House of the Holy Spirit and the other within the walls of the abbey of Vadstena. However, the king had learned that in consequence of poor administration the poor and the sick had not received proper care in these rooms. Therefore the king ordered that the two rooms were to be merged and put “under the rule of one hospital” (*under itt hospitale och regemente*). The town burgomaster and the council were to see that everything would go according to the order.¹⁰⁸ Seven years later, a royal letter was given to a hospital in the Town of Vesterås. The letter granted permission to Rocklunda farm, on which the hospital was situated, to cultivate land for the benefit of the hospital.¹⁰⁹

According to other ordinances from the 1530s, poor people who were admitted to hospitals had to be so ill that they could not provide for themselves. If they had financial means and relatives refused to look after them, the money was to be paid to the hospital and the relatives were to lose their right to inheritance. Town hospitals were meant for local poor while the out-of-town poor were to be sent back to their localities where they were to be attended by local parishes. The poor were kept on a tight rein in hospitals. In general, sixteenth and seventeenth-century ordinances emphasised the responsibility of local parishes to take care of their ‘own’ poor and not to allow them to wander around the realm begging.¹¹⁰

¹⁰⁶ Iseli, “*Bonne Police*”, 244–265.

¹⁰⁷ Schmedeman, *Justitiæ och Executions-Åhrender*, 4.

¹⁰⁸ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 29–30.

¹⁰⁹ *Ibid.*, 54.

¹¹⁰ E. I. Kouri, “Health care and poor relief in Sweden and Finland c. 1500–1700,” in *Health Care and Poor Relief in Protestant Europe 1500–1700*, ed. Ole Peter Grell and Andrew Cunningham (London and New York: Routledge, 1997), 170–173.

The above-mentioned royal letter to the Town of Vadstena attests to a pan-European development within the field of poor relief. For instance, it was common in sixteenth-century Germany that buildings that had previously served as monasteries or convents were placed under secular authority and turned into hospitals.¹¹¹ The role of the state and cities within poor relief strengthened notably during the sixteenth century. This did not mean that the old institutions of poor relief of the Catholic Church or other charitable organizations would have altogether disappeared, but centralization brought about the rationalization, bureaucratization and professionalization of poor relief. During the first half of the sixteenth century, most European cities introduced new measures as well as authorities to fight poverty. In contrast to the cities in Germany, Switzerland and the Netherlands, “in France, at least in theory, the centralization of political authority allowed poor relief schemes to be implemented on a far larger scale than anywhere else in Europe.”¹¹² The French kings were interested in expropriating the revenues of the religious hospitals and redirecting them to secular aid programmes.¹¹³ However, in France, too, many cities took spontaneous initiatives to control poverty through establishing special authorities such as *chambres des pauvres* and *bureaux des pauvres*. Furthermore, in 1614, a *hôpital general* was established in Lyons, and other cities were soon to follow that example. The Lyonnais hospital had its own jurisdiction over the poor and thus played an important role in ‘policing the poor’ (Germ. *Armenpolicy*).¹¹⁴

Education and Schooling, Culture

The source material included only one ordinance that concerned education and schooling.¹¹⁵ This was a *placat* given to the common people that

¹¹¹ Ludwig Ohngemach, “Spitäler in Oberdeutschland, Vorderösterreich und der Schweiz in der Frühen Neuzeit,” in *Europäisches Spitalwesen. Institutionelle Fürsorge in Mittelalter und Früher Neuzeit/Hospitals and Institutional Care in Medieval and Early Modern Europe*, ed. Martin Scheutz et al. (Wien – München: R. Oldenbourg Verlag, 2008), 294.

¹¹² Jütte, *Poverty*, 100–142 (quotation from p. 119).

¹¹³ Daniel Hickey, “Institutionalized Care for the Sick and the Poor in Early Modern France,” in *Europäisches Spitalwesen: Institutionelle Fürsorge in Mittelalter und Früher Neuzeit/Hospitals and Institutional Care in Medieval and Early Modern Europe*, ed. Martin Scheutz et al. (Wien – München: R. Oldenbourg Verlag, 2008), 79.

¹¹⁴ Iseli, “*Bonne Police*”, 266–276.

¹¹⁵ The number of police ordinances concerning education and schooling is not much higher in the manuscript of the register of all Swedish police ordinances issued between 1521 and 1809. Only five ordinances from the period between 1523 and 1611 are included in the manuscript. This data was kindly provided by Karl Härter.

had gathered at the so called Distingz fair that was held yearly in the Town of Uppsala. The king urged the people to send some of their children to the towns in order to learn respectable trades. Children should also be sent to schools so that they could serve the king and the realm both in the secular and the spiritual fields. The intentions of this ordinance were also religious-moral: to keep children away from “obstinacy that until now had much occurred.”¹¹⁶ During the early modern period, education was considered as one of the main ways of fighting poverty and crime.¹¹⁷

Economic System and Professions

Matters concerning the economic system and professions formed the largest category of all police matters during the period 1523–1611. A total of 273 ordinances dealt with the economy and professions. This amounts to 66 % of all police matters of the period. The category is further divided into seven sub-categories as indicated in Table 4.

Table 4: Matters of the Economic System and Professions 1523–1611 (n=273)

4.1 Agriculture	4.2 Forestry and Land Use	4.3 Industrial Production	4.4 Work Regulation	4.5 Handicrafts and Trades	4.6 Commerce and Service Branch	4.7 Monetary and Credit System
11	38	–	4	26	145	49

Agriculture

Eleven ordinances dealt with agriculture. The content of these ordinances was not very advanced. A couple of ordinances simply urged people to cultivate more land, on the one hand, but not to cultivate too much, on the other. For instance, a *mandat* on trade from 1546 encouraged people to cultivate more land in order to secure the supply of grain. Those who were willing to do so were promised temporary exemption from taxes. However, no one was allowed to take land for cultivation more than he could manage because this would only result in deserted farms.¹¹⁸ A few ordinances encouraged people to keep hop gardens (*humblegårder*) so

¹¹⁶ von Stiernman, *Commerce, Politie och Oeconomie... I*, 63.

¹¹⁷ Jütte, *Poverty*, 103–104.

¹¹⁸ von Stiernman, *Commerce, Politie och Oeconomie... I*, 78–79; see also pp. 32–33, 137–143.

that hops would not have to be imported from abroad.¹¹⁹ Hops were an important ingredient in brewing beer and hop growing had already been regulated since late medieval times.¹²⁰ For instance, King Kristoffer's Law of the Land from 1442 included a provision on the obligation to grow hops.¹²¹ Finally, some ordinances also dealt with use of common land or crown land.¹²²

Forestry and Land Use

Matters concerning forestry and land use were the topic of 31 ordinances. Thematically, these ordinances can be divided into four groups. Firstly, fishing was regulated in eleven ordinances. Most of these ordinances dealt with fishing rights and also reminded fishermen about the king's right to a share of the catch.¹²³ Some ordinances regulated the salting of fish.¹²⁴ Fishing was an important source of livelihood in sixteenth-century Sweden. Fish was also one of the most important commodities in which King Gustav Vasa traded. The king received a significant part of taxes *in natura*, in fish among other products.¹²⁵

Secondly, hunting was also an object of royal regulation. The Law of the Land already included provisions on hunting of elk and roe deer.¹²⁶ Police ordinances merely reminded subjects that it was forbidden to hunt animals placed under the king's protection: elk, reindeer, roe deer, and others.¹²⁷ Furthermore, in one ordinance the king expressed his concern about the growth of wolf and bear populations, which was harmful to both people and domestic animals as well as to wild animals. The king therefore ordained that hunting wolves and bears should be organized all over the realm as had been the custom for ages and as was prescribed in the Law of the Land.¹²⁸ According to the Law of the Land, the king's bailiffs were responsible for organizing these hunts and the peasants were

¹¹⁹ Ibid., 51, 159, 190.

¹²⁰ Bjarne Larsson, *Stadgelagstifning*, 174–177.

¹²¹ Schlyter, *Konung Christoffers Landslag*, B:50.

¹²² Schmedeman, *Justitie och Executions-Åhreder*, 7; von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 43–44, 46–47.

¹²³ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 23–25, 68–70, 120–121, 125–126, 167–168, 1008–1009, 1010–1012.

¹²⁴ Ibid., 167–169, 207–208.

¹²⁵ Eli F. Heckscher, *Sveriges ekonomiska historia från Gustaf Vasa: Före frihetstiden I*: (Stockholm: Albert Bonniers Förlag, 1935), 143–144.

¹²⁶ Schlyter, *Konung Christoffers Landslag*, B:23.

¹²⁷ Schmedeman, *Justitie och Executions-Åhreder*, 54, 67, 108–109, 124–126.

¹²⁸ Ibid., 66–67.

obliged to attend them.¹²⁹ Considered from an economic point of view, however, fur from different animals played a relatively minor role in sixteenth-century Sweden.¹³⁰

The third object of regulation was forestry, or more modestly, felling. A handful of ordinances forbade cutting down “fruit bearing trees” (*bärande trä*) such as oak, beech, apple, walnut and rowan.¹³¹ These ordinances referred to the Law of the Land, which stated that cutting down apple or other fruit trees from another’s garden was punishable by a three mark fine.¹³² The king could also grant permission – or to deny a request – to cut down trees for the purpose of building houses or ships.¹³³ In the sixteenth century, forestry was not yet an independent industry. Forests were mainly used for grazing and to obtain building material for private households. For these purposes forests were plentiful.¹³⁴

Fourthly, some ordinances of this particular sub-category dealt with mining. In 1525, King Gustav Vasa confirmed the privileges of the miners of Kopparberget. The miners, their wives, children, servants, movable and immovable property were placed “under royal protection, defence, peace, and mercy”.¹³⁵ The miners were also urged to produce iron of good quality.¹³⁶ The King’s insistence on “good iron” (*gilt jern*) was a result of complaints that had come to the king’s knowledge from abroad – complaints concerning the quality of Swedish copper.¹³⁷ A couple of ordinances were also given on the sufficiency of food supplies in mining camps.¹³⁸ Later in the century, in the 1580s and 1590s, royal ordinances were given on a yearly tax called *aftrad* that miners were supposed to pay to the crown. The king had learned that “great crookedness and fraud” had occurred in paying the tax.¹³⁹ In 1593, however, the tax was temporarily lifted.¹⁴⁰

¹²⁹ Schlyter, *Konung Christoffers Landslag*, B:21.

¹³⁰ Heckscher, *Sveriges ekonomiska historia... I*, 141–143.

¹³¹ von Stiernman, *Commerce, Politie och Oeconomie... I*, 41–42, 48, 158–159; Schmedeman, *Justitie och Executions-Ähreder*, 6, 54, 124–126.

¹³² Schlyter, *Konung Christoffers Landslag*, Tj:26.

¹³³ von Stiernman, *Commerce, Politie och Oeconomie... I*, 41, 53–54.

¹³⁴ Heckscher, *Sveriges ekonomiska historia... I*, 136–141.

¹³⁵ *Bergwerken och Bruken*, 27. See also pp. 29–32, 34–37; von Stiernman, *Commerce, Politie och Oeconomie... I*, 17–18.

¹³⁶ von Stiernman, *Commerce, Politie och Oeconomie... I*, 23, 26, 32; see also p. 426.

¹³⁷ Rosén, *Svensk historia*, 321; see also Heckscher, *Sveriges ekonomiska historia... I*, 145–162.

¹³⁸ *Bergwerken och Bruken*, 27–28, 33–34.

¹³⁹ von Stiernman, *Commerce, Politie och Oeconomie... I*, 288; see also pp. 317–320, 359–360.

¹⁴⁰ *Ibid.*, 413–415.

Work Regulation

Only four ordinances included provisions on work regulation. An ordinance from 1540 prescribed that wandering men should not be hired as day labourers but instead should be hired for a period of half a year or one year. A hired man's (*legedräng*) yearly wage should not exceed five marks. The yearly wage was not allowed to be paid out in grain or in fish.¹⁴¹ The other three ordinances contained provisions of a similar kind. Furthermore, no one was allowed to offer work to another man's hired folk, and in times of scarcity the wages of servants could be reduced by one third.¹⁴²

Handicrafts and Trades

Different trades (*embeter*) were also the object of royal regulation. Until the latter half of the sixteenth century, the guild system (*skråväsendet*) was still fairly undeveloped in Swedish towns. Most guild regulations or orders (*skrå-ordningar*) that had been drawn up by then mainly concerned Stockholm. However, in the 1570s the crown began to show increasing interest towards the guild system in both Stockholm and other Swedish towns. The reasons for the crown's growing interest were at least twofold. On the one hand, the crown wanted to control the prices and quality of different products, while on the other, it wanted to ensure that it received tax revenues imposed on trades. The Swedish crown's attitude towards guilds during the latter half of the sixteenth century was more positive than, for instance, in Denmark where the kings at times even practiced a hostile policy towards the guilds.¹⁴³

The above described development is also well manifest in the empirical material of this study. The material includes only one ordinance on guilds before the 1570s. This is a Guild Order (*skrå ordning*) for the tailors of Stockholm of 1536 in which King Gustav Vasa confirmed the old privileges for tailors and set qualifications for the profession.¹⁴⁴ This ordinance is still quite scant and simple in terms of its contents. Other ordinances on trades prior to 1570s were also fairly simple. A couple of ordinances prescribed that those who practiced the craft of a goldsmith were forbidden

¹⁴¹ Ibid., 59.

¹⁴² See von Stiernman, *Commerce, Politie och Oeconomie* . . . I, 74, 81–82, 90, 144.

¹⁴³ Dag Lindström, *Skrå, stad och stat: Stockholm, Malmö och Bergen ca. 1350–1622* (Uppsala: Acta Universitatis Upsaliensis, 1991), 159–167.

¹⁴⁴ von Stiernman, *Commerce, Politie och Oeconomie* . . . I, 35–38.

to swindle the common people in the markets and ordered to use only real gold.¹⁴⁵ It was also strictly forbidden for a tradesman (*embetsman*) to sell products other than those produced in his own household.¹⁴⁶

As noted the situation changed from the 1570s onwards. The material includes several guild regulations after the beginning of the 1570s. In 1577, Duke Karl granted privileges to the shoemakers of the Town of Nyköping.¹⁴⁷ Ten years later, in 1587, the tailors of the same town received their guild regulations.¹⁴⁸ In 1596, the king gave his confirmation to the guild regulations of the goldsmiths of the towns of Vadstena, Linköping and Stockholm.¹⁴⁹ In 1602, it was the turn of the coppersmiths of Stockholm to receive royal confirmation for their guild regulation.¹⁵⁰ Finally, in the same year the masons (*murmästare*) of Stockholm received royal approval of their guild regulations.¹⁵¹ It was particularly in Stockholm where different guilds turned directly to the king in order to obtain confirmation of their guild regulations. This bears witness to the Swedish kings' strong status in relation to the guilds, as does the fact that on several occasions the kings tried to control the rates of craftsmen's work.¹⁵²

Commerce and Service Branch

Judging by the number of ordinances, commerce was the most important field of regulation in sixteenth century police ordinances. A total of 145 ordinances included provisions on commerce (and the service branch), which is thus the biggest sub-group by far. Because it would here be impossible to give a detailed account of all of these ordinances, I shall confine myself to reporting the general themes. Those were: trading rights, control of prices, bans on export, customs duties and excises, and inns and taverns.

Provisions on trading rights were given steadily throughout the sixteenth century. These provisions followed very much the principles of economic policy common to all medieval Europe. Firstly, all trade was to take place in towns. It was not allowed to sell products until they had

¹⁴⁵ Ibid., 18–19, 50–51, 59–60.

¹⁴⁶ Ibid., 73, 85, 203.

¹⁴⁷ Ibid., 286–288.

¹⁴⁸ Ibid., 345–347.

¹⁴⁹ Ibid., 442–445.

¹⁵⁰ Ibid., 463–467.

¹⁵¹ Ibid., 467–468.

¹⁵² Lindström, *Skrå*, 161–162. Attempts to control rates appear in several ordinances. See von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 75, 89, 229, 250, 252.

been transported to the city market place, i.e., the so called ban on 'pre-trade' (Swedish *förköp*, Germ. *Fürkauf*). Secondly, trading was the privilege of the bourgeoisie of the cities. The nobility, clergy, officials and free peasants were not allowed to trade, not even in the countryside. Thirdly, only a town's resident burghers were allowed to trade within the town walls. However, merchants from other domestic towns and abroad were allowed to sell their products at free fairs (*frimarknader*). Lastly, foreign trade was concentrated only in a few bigger towns. This policy was known as 'staple town policy' (*stapelpolitiken*).¹⁵³ These kinds of provision were already included in medieval Swedish law codes, and now they had found their way into sixteenth-century royal ordinances.

For instance, King Johan III issued a Mandate against Abuse in Trade in all Towns in 1580. The king regretted the existence of

a common disorder and malpractice all over the realm that has been brought about through the practice of illegal trade in the countryside [*olaglig Landzköp*], pre-trade and swindling by the religious as well as the secular [estates], the high and the low, nobles and commoners, priests, bailiffs, clerks as well as peasants, so that Our loyal subjects, the common bourgeoisie in all cities have become weaker and poorer [...].¹⁵⁴

The mandate imposed severe punishments for those who did not abide by its provisions. The members of the nobility were to lose their fiefs, royal officials their appointments, priests their tithes, peasants were to pay a forty thaler fine, and so on. A third time offence would even result in the death sentence. However, to trade for the need of one's own household was allowed.¹⁵⁵

Secondly, the concern for excessively low or high prices was a recurring theme in the sixteenth century. This manifests itself in numerous ordinances through which the kings tried to control the prices of various products. As far as foreign trade was concerned, the crown was worried, on the one hand, that Swedish merchants would sell their products to foreign merchants for too low a price. On the other hand, the crown also feared that Swedish merchants would pay too high a price for imported products. Therefore, the kings issued ordinances that imposed tariffs on various products. For instance, an *ordinantie* from 1555 prescribed that a Swedish merchant was to sell a barrel of butter to a German merchant

¹⁵³ Heckscher, *Sveriges ekonomiska historia* ... I:1, 240–253.

¹⁵⁴ von Stiernman, *Commerce, Politie och Oeconomia* ... I, 299.

¹⁵⁵ *Ibid.*, 299–309.

for no less than 38 marks. On the other hand, an ell of three-haired velvet should not be bought for more than eight marks.¹⁵⁶ However, the crown was not only concerned about prices in foreign trade. Another cause for worry seems to have been the general price level in domestic trade. Especially in times of scarcity, as in the 1530s, King Gustav Vasa issued ordinances in which he urged people to cut down the general price level, usually by one third.¹⁵⁷

The third major theme in this particular sub-group of police matters was bans on export. The cause of such bans was to secure the supply of vital products in Sweden as well as to prevent price rises. For instance, in 1532 and 1533, a couple of ordinances were given in which the crown prohibited the export of oxen because export had raised prices so that the locals could no longer purchase the animal. By the same token, a maximum limit of 16 Danish marks was set on the price of "a pair of able oxen".¹⁵⁸ Horses were another domesticated animal whose export was forbidden.¹⁵⁹ The export of grain was also banned at times.¹⁶⁰ Sometimes the king's personal interest could lie behind a particular ban. In 1551, King Gustav Vasa sent a letter to one of his governors asking him to oversee that no fur of black fox, black pine martens, or lynx were to be exported because the king's "beloved wife and dear children needed them".¹⁶¹ Bans on export were also issued in order to prevent hostile territories from receiving vital products such as provisions and metals.¹⁶²

Customs duties and excises formed an important part of crown revenues during the early modern period. It is therefore no wonder that several ordinances on these issues, i.e., on the fourth theme, were given during the first research period. For a long time past, merchants had been obliged to pay a toll on imported goods in Sweden. However, the fiscal significance of customs duties gained more importance when trade increased and Swedish towns began to grow bigger during the sixteenth and especially the seventeenth centuries. The empirical material includes several ordinances on customs duties for imported goods. For instance, in 1536,

¹⁵⁶ *Ibid.*, 133–137; see also pp. 2–4, 241–243, 511–517, 532.

¹⁵⁷ See e.g. *ibid.*, 75.

¹⁵⁸ *Ibid.*, 22–23, 25, 26, 32, 172–175.

¹⁵⁹ *Ibid.*, 172–175, 231–232, 374–376.

¹⁶⁰ *Ibid.*, 374–376.

¹⁶¹ *Ibid.*, 121–122.

¹⁶² *Ibid.*, 196, 447–451, 548–550, 555–556.

the bailiffs were told to collect a toll of 5 % on all imported goods.¹⁶³ Many ordinances included lists of tariffs for various products.¹⁶⁴ Ordinances were also given on the correct customs formalities so that no one could evade customs duties. Every merchant, foreign as well as domestic, was obliged to declare all imported goods in person before a customs clerk, no goods were allowed to be imported secretly, goods could not be sold before customs clearance, and so on. Those who broke these rules lost their cargo and had to pay fines.¹⁶⁵

A general customs duty on exports was introduced in 1559.¹⁶⁶ Later in the century, in 1591, King Johan III issued a *patent* declaring that no import duty would be collected in the future. Merchants had complained that now they had to pay customs duty on both imported and exported goods. In order to put a stop to these complaints and to ensure the availability of foreign goods, import duty was lifted.¹⁶⁷ In 1600, it was specified that exemption from import duty concerned only those who owned a house and belongings in Swedish towns.¹⁶⁸ Four years later, in 1604, King Karl IX stated in an open letter that from then on foreign merchants were also exempt from import duty (*intollen*), so that they would continue to import foreign products to Sweden.¹⁶⁹ Along with export and import duties, collecting excises (*accis*) was an important source of revenue for the crown. Excises were mainly levied from foreign drinks, i.e., wine and beer.¹⁷⁰

The fifth major object of regulation was inns and taverns. As already indicated above, ordinances on inns and taverns were closely related to the crown's attempt to put an end to all unlawful demands for hospitality and transportation. In an ordinance on inns and taverns from 1561 King Erik XIV ordered that in order to prevent all unlawful demands for hospitality and transportation, inns and taverns (*tavernere och gesthws*) should be erected alongside all highways throughout the Realm so that journey-men could buy beer, food, feed-stuff for horses, and other necessities.¹⁷¹ The order more or less followed a provision that was already included in

¹⁶³ Ibid., 33–35.

¹⁶⁴ Ibid., 171–172, 369–373, 533–537.

¹⁶⁵ Ibid., 126–129, 169–171, 211–213, 272–283, 283–286, 312–316, 341–345, 452–259, 481–482, 485–486, 487–488.

¹⁶⁶ Ibid., 169–171.

¹⁶⁷ Ibid., 364–365.

¹⁶⁸ Ibid., 452, 454.

¹⁶⁹ Ibid., 488.

¹⁷⁰ Ibid., 150, 223–225, 243–245, 291–292, 312, 357–358, 364–365, 373–374, 453–454, 456–457, 537–538.

¹⁷¹ Ibid., 175–178.

the Law of the Land.¹⁷² What was new, though, was that the king ordered district judges to award a sum of six marks for those areas that did not yet have a tavern but needed one. This money was supposed to be invested in the erection of new inns and taverns. The crown order was also repeated in later ordinances.¹⁷³ Provisions were also given on the prices of horses and food in taverns.¹⁷⁴

Monetary and Credit System

Within the first research period, a total of 49 ordinances included provisions on the monetary and credit system. Some of these ordinances were actually commissions and instructions for individuals on the correct way to make coins.¹⁷⁵ On the whole, coinage was strictly regulated by the crown. During the sixteenth century, silver formed the standard for Swedish currency, which meant that the real value of coins was measured by their silver percentage. Often, however, the nominal value of coins was higher than their real value. In the course of the century, Gustav Vasa and his sons Erik XIV and Johan III carried out several reforms whose purpose was to decrease the silver percentage of coins so that silver was left for other purposes such as commerce and the crown's own needs. Old coins were collected back to the crown so that they could be melted down and re-minted as new coins with a lower silver percentage but a higher nominal value. Constant shortage of money made the crown coin more and more new coins.¹⁷⁶

However, the monetary reforms had negative consequences for the crown. Subjects often melted the old coins themselves for their higher silver percentage. Merchants also used old coins in foreign trade, which meant that Swedish coins drifted abroad. This was, of course, quite opposite to the crown's initial goal of increasing the amount of coins within the realm. Therefore, the majority of all the ordinances on the monetary system included provisions on the nominal value of newly coined Swedish coins in relation to old coins and foreign money. In these ordinances the kings also exhorted their subjects not to "contempt and export Swedish

¹⁷² Schlyter, *Konung Christoffers Landslag*, Kg:24; Holmbäck and Wessén, *Magnus Erikssons Landslag*, Kg:23.

¹⁷³ von Stiernman, *Commerce, Politie och Oeconomia... I*, 205, 327, 332.

¹⁷⁴ *Ibid.*, 220, 490–491, 542–543, 545–546.

¹⁷⁵ *Ibid.*, 144–146, 148–149, 213–214, 249–251, 1005–1008.

¹⁷⁶ Heckscher, *Sveriges ekonomiska historia... I.1*, 202–227.

coins”.¹⁷⁷ According to the ordinances, unlawful melting and exportation of coins resulted in price increases, but in fact it was often the very monetary reforms that at times even caused fierce inflation.¹⁷⁸

Land Division, Public Construction, Real Estate, and Public Institutions

Seventeen ordinances dealt with matters concerning land division, public construction, real estate, and public institutions. This is but 4 % of all the police matters in the first research period. This category is further divided into four sub-categories as indicated in Table 5.

Table 5: Matters of Land Division, Public Construction, Real Estate, and Public Institutions 1523–1611 (n=17)

5.1 Water Ways and Water Works	5.2 Roads, Transportation and Mail	5.3 Land and Real Estate	5.4 Public Construction and Infrastructure
1	12	1	3

Water Ways and Water Works

The only ordinance on this particular sub-category was a royal letter to one Axell Erickson, to whom King Gustav Vasa gave a mandate to negotiate on building a proper port for the Town of Jönköping and strengthening the banks of the town river so that boats could easily sail into the town.¹⁷⁹

Roads, Transportation and Mail

In 1575, a *stadga* was given prescribing that all men, including peasants who farmed land on the nobility’s estates (*adelens landbönder*) or on crown estates (*kronbönder*), were obliged to build bridges and clear roads as stated in the Law of the Land.¹⁸⁰ Indeed, the chapter on land division and road building (*byggningsbalken*) of the Law of the Land prescribed that all

¹⁷⁷ von Stiernman, *Commerce, Politie och Oeconomia* . . . I, 4–6, 14, 47–53, 60, 165, 180–184, 191–202, 209–211, 225–230, 239–241, 245–247, 361, 366–367, 376–384, 386–404, 427–443, 468–469, 472–473, 475–476, 486–487, 491, 551–554, 1013–1014, 1016–1017.

¹⁷⁸ Heckscher, *Sveriges ekonomiska historia* . . . I:1, 215–218.

¹⁷⁹ von Stiernman, *Commerce, Politie och Oeconomia* . . . I, 97.

¹⁸⁰ Schmedeman, *Justitiæ och Executions-Ährender*, 65.

men were to take part in building bridges and clearing roads in proportion to each man's property in the village.¹⁸¹ Furthermore, in 1593 King Karl IX passed a Patent on Various Issues in which he reminded his bailiffs and district judges to diligently see that bridges were built and roads cleared as the Law of the Land provided.¹⁸²

As already stated above, throughout the sixteenth century numerous ordinances were issued in which the kings forbade all unlawful demands for hospitality and transportation. In this study, these ordinances are included in sub-group 2.2. However, if such an ordinance also included provisions on the prices that travellers had to pay for horses, then they are dealt with here as separate matters under the rubric of transportation. In fact, a handful of such ordinances were given. For instance, a Mandate on Rides (*mandat om skiutsresor*) of 1572 ordered that no one was to demand transportation unless he had a permit letter or wore a "postal coat of arms" (*post wapn*). All others had to pay one and a half öre for each mile travelled by horse.¹⁸³ Furthermore, a resolution of 1537 stated that each hundred (*härads*) was yearly obliged to equip the district judge with a horse (*härads höfdingahästa*).¹⁸⁴ One ordinance regulated the delivery of mail. In it, King Karl IX stated that he would continue to pay for the keep of every sheriff (*länsman*) if they delivered all outgoing and incoming mail "without unnecessary delay".¹⁸⁵

Land and Real Estate

Only one ordinance touched upon matters concerning land ownership. This was a letter of confirmation about the rightful ownership of land (*jordhebreff*) given by King Gustav Vasa to the burghers of Strängnäs. The burghers of the town had complained to the king that the Church had unlawfully taken over their land. The king confirmed the burghers' ownership because both inspection as well as documents presented spoke on their behalf.¹⁸⁶

¹⁸¹ Schlyter, *Konung Christoffers Landslag*, B:3.

¹⁸² Schmedeman, *Justitiæ och Executions-Åhreder*, 107.

¹⁸³ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 220; see also pp. 238, 257, 266, 329–330, 431–432, 441.

¹⁸⁴ Schmedeman, *Justitiæ och Executions-Åhreder*, 6.

¹⁸⁵ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 480–481.

¹⁸⁶ *Ibid.*, 13–14.

Public Construction and Infrastructure

The empirical material contained three ordinances on matters of public construction, sanitation, infrastructure, and the like – two of them concerned Stockholm. The first, from 1557, was an ordinance in which the king expressed his concern about the poor condition of the buildings of the town, which had made the town weaker. Therefore all houses, both stone houses as well as wooden houses with the exception of the poor-house, were to pay a yearly levy of 0.5 % of their worth. All drains in the streets and in the ports were to be kept clean by those responsible for their maintenance, i.e., house owners, on penalty of a fine and imprisonment. The ordinance included detailed provisions on the proper way of keeping the drains clean. The drains were to be cleaned twice a week. On a given stroke of the clock, those who lived highest up the street were to start flushing the drain and the next ones were to follow until all the waste had washed away into the sea. In addition, anyone who dumped their waste in the streets or the port was to pay a fine. No animals were allowed to be kept within the town walls. All unsafe wooden houses were to be torn down at the earliest convenience. Furthermore, no breweries (*bryggere huus*) were allowed to be built in the town area. They should instead be erected by the water and located far enough away from each other so that fire would not spread into the other breweries in case one of them caught fire.¹⁸⁷ The second ordinance was an order from 1581 to tear down all wooden houses in the town and to build stone houses instead. In addition, the king ordered that all the fortifications and churches were to be strengthened and finished.¹⁸⁸ Fire safety was also a concern for the authorities. Duke Karl's *hoffordning* from 1590 ordained that hired soldiers who were keeping guard "should also pay special attention to fire and lights so that no accidents would happen."¹⁸⁹

Matters of public construction, infrastructure and sanitation were an important part of police in the cities of early modern Europe. In France, for instance, *police de la voirie* was an integral part of administration in the cities. *Voirie* was a general concept that covered city planning, public construction, street building, fire safety, water supply, public sanitation, and the like. For a long while, jurisdiction over matters of *voirie* belonged to the cities but in 1599 a special state authority, *grand voyer de France*, was

¹⁸⁷ Ibid., 150, 152–153.

¹⁸⁸ Ibid., 309–311.

¹⁸⁹ Schmedeman, *Justitiae och Executions-Ährennder*, 92.

established. This resulted in numerous jurisdictional disputes between the cities and the new officeholders later in the sixteenth century. However, according to French customary laws, the actual responsibility to keep the streets clean landed with house owners, as did the responsibility to take care of the pavement. For instance, an ordinance from 1718 stated that if the house owner did not perform his duty in eight days, the pavement was repaired by the city, at the expense of the house owner.¹⁹⁰

* * *

So, we have reached the end of describing the plurality of the various police matters that the Swedish royal ordinances encompassed during the first research period of 1523–1611. However, so far almost nothing has been said about justification for regulation. Next, I shall discuss how regulation was justified in police ordinances themselves.

JUSTIFICATION OF ORDINANCES

Royal police ordinances did not merely include plain provisions, regulations and orders on how to behave and not to behave, what to do and not to do, what was allowed and what was forbidden, and the like. Ordinances also embodied the ideological reasoning for issuing the ordinances themselves – and royal intervention in general. This reasoning was normally given in the preambles to ordinances although not all ordinances incorporated justificatory reasons. Two major justificatory themes emerged from the material: political and religious-moral. In the contemporary mindset as well as in police ordinances these two themes were intertwined, of course, but for analytical purposes they are here discussed separately.

Political Arguments: 'Benefit of the Realm and its Inhabitants' and 'Good Order'

As already stated in the second chapter of this book, from the late Middle Ages onwards the conception of rulership gradually started to change. The old medieval conception of a king as the guardian of peace and justice started to lose ground and was little by little replaced by a more active and progressive notion of kingship. Rulers were no longer solely perceived as the *custos legum* but also as the active steersmen of society. The

¹⁹⁰ Iseli, "Bonne Police", 204–243.

ideological background for this change lay in Roman law, Aristotelian scholasticism and Northern Italian 'city state literature'. Despite these new ideological trends, political literature in Germany, for instance, remained quite conservative well into the sixteenth century. Although the German *Regimentstraktate* emphasized the ruler's responsibility for keeping 'good order' (*gute Policey*), the notion of order that these works referred to was still static and religious in nature. The societal order that the rulers were to maintain was preordained by God.

The idea of the king as the guarantor of societal order also occurred in Swedish police ordinances: it was the king who was responsible for creating, maintaining and restoring order in society. However, the concept of order did not really appear in ordinances until the 1560s, i.e., after Gustav Vasa's death. Prior to his death, the ideological phrase – with variations – that most often recurred in police ordinances was "the benefit and the best of the realm and its inhabitants" (*rikets och thes inbyggernes gagn och bäste*). As early as 1524, King Gustav Vasa declared in an ordinance to the Province of Kalmar how he had taken note of the rise in the price of salt. The king declared that he had nothing to do with the rise in salt prices and how he had, on the contrary, tried to promote commerce in the realm to the best of his abilities. The high price of salt was a result of the disputes and struggles between the Emperor of the Holy Roman Empire and the King of France. Gustav Vasa stated finally that

We will always readily do, as God mercifully wants Us to, what We know is for the long-lasting well-being and best interest of all of you.¹⁹¹

Similar phrases were used throughout the first research period of 1523–1611.¹⁹² Often, too, 'reverse reasoning' was utilized, i.e., kings justified giving ordinances by their will to root out customs, practices and behaviour which were considered harmful and damaging for the realm and its inhabitants. For instance, in 1532 Gustav Vasa forbade the common people of the Province of Kalmar to export oxen to Denmark because this had inflated prices in Sweden. This kind of practice was "fatal and detrimental to the common man all over the realm".¹⁹³

¹⁹¹ von Stiernman, *Commerce, Politie och Oeconomie*... I, 8. "[...] och huar Wij kunne wethe alles eders beste goda gagn och longliga bestandt/giöre Wij altijt gerna eptar som Gudh gifuer Oss nadhen til."

¹⁹² Ibid., 48, 60, 76, 98, 132, 138, 173, 187, 194, 200, 201, 206, 207, 252, 264, 324, 361, 380, 417, 428, 492, 538, 1015.

¹⁹³ Ibid., 25. "then menige man öffuer hela rijkit til en dräpelig skada och förderf". See also pp. 48, 64, 173, 176, 204, 206, 207, 208, 209, 214, 225, 228, 236, 240, 379, 428.

Kings' responsibility to take care of the realm and its people fell upon them because of their position as the holders of 'royal office'. For instance, in 1570, Johan III declared in a *patent* that despite his prior interdiction, those engaged in trade and commerce still continued to carry Swedish coins abroad. This was not only fatal to the realm but also something that the king "could no longer tolerate due to Our royal office".¹⁹⁴ Of course, it was not the 'royal office' *per se* that obliged kings to act in the best interest of the realm. More importantly, it was because they were, above all, Christian kings. Rulership was something that they were endowed with by God himself. In fact, already many of the early ordinances of King Gustav Vasa ended with the phrase "as God hereby commands ye" (*eder her medh Gudh befallandes*).¹⁹⁵ On occasion, Swedish kings declared that they acted "with the help of the Almighty".¹⁹⁶ In 1546, Gustav Vasa declared in an ordinance that "his authority was endowed to him by God".¹⁹⁷ Later in the century, in 1573, Johan III declared that he had always worked for the well-being of his subjects and the realm "as a proper Christian ruler and king should do".¹⁹⁸ This type of reasoning was typical of sixteenth-century political theory. Even though literature on political theory was virtually non-existent in Sweden, traces of Lutheran political theory can be found in contemporary (political) documents. For instance, the remaining coronation sermons for both Gustav Vasa as well as Erik XIV attest to a strong Lutheran influence. In both documents the king was depicted as "God's governor" (*Guds befallningsman*) and therefore the holder of absolute sovereignty.¹⁹⁹

However, the power of kings was not limitless. According to contemporary political doctrine, the ruler was bound by law – be it divine, natural or customary law. He was also to act always within the best interest of his subjects and to promote their well-being. For instance, Duke Karl

¹⁹⁴ Ibid., 209. "[s]å ståår Oss på Wårt konungslighe embetes wegne sådant ingelunde lenger til at lidhe". See also pp. 76, 138, 204, 232, 261, 300, 379.

¹⁹⁵ See e.g. *ibid.*, 18, 24, 25, 26, 31, 33, 41, 53, 55, 131.

¹⁹⁶ *Ibid.*, 48, 76, 98, 138, 187, 252.

¹⁹⁷ *Ibid.*, 75. "Oss [...] aff Gud tilskickede öffrigheet".

¹⁹⁸ *Ibid.*, 228. "som en rätt Christen herre och konung ägner och bör". *Ibid.*, 225.

¹⁹⁹ Sten Lindroth, *Svensk lärdomshistoria: medeltiden/reformationstiden* (Stockholm: P. A. Norstedt & Söners Förlag, 1975), 310–316; see also Bo H. Lindberg, *Praemia et Poena: Etik och straffrätt i Sverige i tidig ny tid. Band I. Rättsordningen* (Uppsala: Uppsala Universitet, 1992), 233–248. On the Lutheran Reformation and its political implications, see John Jr. Witte, *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge: Cambridge University Press, 2002), 87–117.

declared in an ordinance from 1573 that “Our princely vocation and office requires to enforce and to maintain law and all good order”.²⁰⁰

In the middle of the sixteenth century, argumentation in the ordinances was refined to a certain extent. Kings were still seen as protectors of the realm and its inhabitants but new formulations and concepts were introduced. Indeed, the term ‘good order’ emerged in ordinances for the first time in the 1560s – as did the term ‘police’ (*politie*). In 1563, Erik XIV issued an ordinance in which he declared that

as much as possible, Our intention is to see that good police and competent regimen shall always prevail wherever Our land and Kingdom extends itself.²⁰¹

Over a decade later, in 1576, Johan III stated in an ordinance on the tariffs of various craftsmen how he had from the very beginning of his reign intended that “a good police and order both in the spiritual and temporal sphere could exist and ameliorate”.²⁰² Later in the same year, Duke Karl issued an ordinance on various trades in the cities. The motive for giving the ordinance was the “veracious observation” that those cities were improved in which “a good police and order prevailed amongst trades”.²⁰³ In all three ordinances, the term *politie* was used as a synonym for the term ‘order’.

What was this order or police that the ordinances referred to? How was it conceived in the contemporary mindset? Thomas Simon has argued that the order to which the German sixteenth-century political treaties were referring to was above all a good *moral* order. Even though medieval scholastic tradition was still strongly followed, what was new was the strengthening of moral argumentation. Simon talks about the ‘moralization of politics’ (*Moralisierung der Politik*). Good moral order was a static order preordained by God; everyone had their place in society. The responsibility of the ruler was to remove all obstacles that threatened that order. Police ordinances were understood as a means of combating all possible threats to the pre-existing order. As yet, economic arguments did

²⁰⁰ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 232. “Wårt Fursterliga kall och Embete kräfver, att styrckia och handhafwa Lag och all god ordning”.

²⁰¹ Ibid., 187. “så myckit mest mögeligit kan ware Oss ther um winläggie, at een godh Politie och skickeligit Regemente hålles och handhaffues måtte allestädz så widt som Wäre land och Konunge Riker sigh streckie.”

²⁰² Ibid., 252. “enn god politie och ordning både udi andelig och werldzlig motto sig förekomma och förbättra kunde.”

²⁰³ Ibid., 261. “at god politie och ordning ibland Embeterna [. . .] wid macht hållit.”

not have independent value; they were subordinate to moral arguments. This appeared, for instance, in the view that each social class had their own professions as well as economic needs.²⁰⁴

The moral-religious nature of the societal order is also well manifest in Swedish sixteenth-century police ordinances. For instance, an ordinance on illegal trade in the countryside from 1544 stated that

a Burgher, Yeoman and others [...] should keep that source of livelihood which God, all Christian reasons, and Our own written Law of Sweden allows.²⁰⁵

The notion of an order ordained by God also appeared in ordinances that concerned clothing. In 1546, King Gustav Vasa and his Council ordained in a statute that each man in the villages as well as each burgher in the cities should wear clothes according to his status

because pretentiousness and pride are not at all necessary but more likely to make God angry and be fatal for the common good.²⁰⁶

These passages lead us conveniently to the next group of reasoning, i.e., religious argumentation.

Religious Arguments: 'The Wrath of God'

We have learned how the Lutheran notion of the ruler as God's governor and the idea of societal order as a God-given order both appear in sixteenth-century Swedish police ordinances. However, ordinances also included other types of religious argumentation that must be accounted here.

In sixteenth-century Germany, it was common for territorial rulers to legitimate their action by their will to avoid the 'wrath of God' (*Zorn Gottes*). In fact, the wish to avoid the wrath of God came to represent a permanent part of the preambles of sixteenth-century police ordinances. Of course, the idea of human contrition was not novel, but what was new was its harnessing for political purposes. Religion started to play a more important role in the political sphere. What took place on the threshold of the early modern period were a *Christianisierung* and *Sakralisierung* of

²⁰⁴ Simon, "Gute Policey", 126–167.

²⁰⁵ von Stiernman, *Commerce, Politie och Oeconomie... I*, 66–67. "een Borgare/Bönde och andre [...] skole blifwa hwar widh then nähring och bäring som Gud/ all christelig skähl och Wår egen beskrefne Sweriges lagh medgifver."

²⁰⁶ Ibid., 74–75. "förtä bram och högmödh är platt intet förnödhth uthan skeer till Gudz förtörnelse/ och thet menige bästes förderff."

politics and society at least to a certain degree. This trend went hand in hand with the moralization of politics since religion still formed the basis of morality in the sixteenth century.²⁰⁷

The desire to avoid God's vengeance was a somewhat often used argument in early modern Swedish police ordinances too. In 1546, King Gustav Vasa issued a Mandate on Trade (*mandat om kiöphandelen*) in which he encouraged people to farm more land and not to practice illegal trade in the countryside. One of the reasons for giving this mandate was the rise in the price of grain in the realm. Gustav Vasa stated that "high prices caused by crop failure" (*dyr tijdt*) and other such punishments that the realm has recently been burdened with happen "through the will of God who always punishes people for their sins as the scripture testifies".²⁰⁸ Later in the same year, Gustav Vasa continued in the same vein:

Beloved subjects, We have no doubt that you have often enough heard, seen and found how Almighty God tends to test and punish humans with manifold torments such as pestilence, hunger, high prices and other things of that kind for their evil and manifold sins, and especially because no fear of God exists amongst people, instead rather disobedience, inner discord, hatred, envy and self-interest, as now Our kingdom have been tried with regrettable high prices for similar kinds of reasons mentioned above.²⁰⁹

This type of religious argumentation was utilized especially when kings reproached the people for causing rises in general price levels.²¹⁰ But the "wrath of God" as well as "fear of God" were readily used as arguments for other purposes as well, for instance for blaming people for not attending church services often enough.²¹¹ The wish to avoid God's anger was also the explicit reasoning behind Gustav Vasa's order for the people to send some of their children to cities in order to get an education or to learn a trade.²¹² Finally, the same argument was exploited in a *stadga* of 1598 in

²⁰⁷ Simon, "Gute Policy", 137–151.

²⁰⁸ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 78. "genom Gudz tillatelse/ hwilkin altid menniskiornes synder/ som schrifften bewise/, i många hånde motte straffer."

²⁰⁹ Ibid., 98. "Oss tuijfer inthet käre undersåther att I haffue ju offthe nogh hört/ seedt och förnummit/ huru then Alzmechtige Gud menniskian för sin ondske och margfallige synder skull/ och synnerligen att ingen Gudz fruchtan är ibland folket/ uthan fast snarerne ohörsamhet/ inwertes twedrächt/ haatt/ avund och eigen nyttighet mz ättskillige plågor/ som är pestilenzie/ hunger/ dyr tijdh och annet sådant ofte och tiitt hemsökie och straffue plåger/ som ock för slijke förb:te ordsaker skull thetta Wärt konungarike i så motte är blefwedt hemsöcht med een besuärlig dyr tid."

²¹⁰ Ibid., 139, 156–157, 187–188.

²¹¹ Ibid., 415; Schmedeman, *Justitie och Executions-Ährender*, 15–16, 34–35.

²¹² von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 63.

which Karl IX forbade judges to preside in the appellate court in cases that they had themselves tried in a district court. Unjust decisions and too lenient punishments resulted in plagues sent by God.²¹³

Another type of religious argumentation was also exploited in ordinances. A *stadga* of 1540 explicitly refers to the Decalogue. Various sorts of verbal and physical abuse of one's own parents were forbidden because "everyone was to honour one's Father and Mother as it stood in God's Ten Commandments".²¹⁴ In fact, the fourth commandment was one of the 'fundamental norms' of early modern societies. In Sweden – as in Continental Europe – it operated not only as a justification for the power of the *pater familias* but it also legitimated the power of the secular authority, i.e., the power of rulers. The fourth commandment offered a hierarchical model for the organisation of the whole of society in the early modern period.²¹⁵ It also provided a justificatory framework for regulation in many areas of law.²¹⁶

Sometimes, ordinances more or less directly referred to theological doctrines. A mandate on ecclesiastical censure (*kyrckioplicht*) of 1586 serves as a good example of this. In it Duke Karl ordered the bailiffs of his duchy to help the clergy, if necessary, in the execution of ecclesiastical punishments such as penance or public confession. The reason for issuing this mandate was that people had been avoiding ecclesiastical punishments on the pretext that a pardon for a capital punishment given by the prince would also extend itself to ecclesiastical punishments. However, this view was a false one.²¹⁷ It is likely that the Lutheran two-kingdoms doctrine lay behind this particular mandate. The earthly authority, i.e., the prince, was in charge of secular punishments whereas ecclesiastical punishments

²¹³ Schmedeman, *Justitiæ och Executions-Åhreder*, 113.

²¹⁴ Ibid., 12. "hwar äger ähra Fader och Moder/ såsom uti the tijo Gudz budord ständer."

²¹⁵ Simon, "Gute Policye", 171–172; Lindberg, *Praemia et Poena*, 243–248. It should be kept in mind, however, that the renaissance of the Decalogue was not simply a result of the Lutheran Reformation. From the twelfth century onwards, the Bible, and especially the Decalogue, had already begun to gain ever increasing interest amongst the Catholic Church and theologians. This manifested itself, among other things, in the form of catechism literature. By the end of the fifteenth century, catechisms had become one of the most important groups of moral guides in Europe. See Robert James Bast, *Honor Your Fathers: Catechisms and the Emergence of a Patriarchal Ideology in Germany, 1400–1600* (Leiden – New York – Köln: Brill 1997).

²¹⁶ On the importance of the Decalogue's fourth commandment in Swedish legal history, see Toomas Kotkas, "Hedra din fader och din moder: en tidlös grundnorm," in *Dekalogen: 13 essay om menneske og samfunn i skjeringspunktet mellom rett och religion*, ed. Jørn Øyrehagen Sunde (Bergen: Fagbokforlaget, 2008).

²¹⁷ Schmedeman, *Justitiæ och Executions-Åhreder*, 83.

belonged to the Church's jurisdiction. The secular authority was in no position to interfere in the personal relationship between an individual person and God. Faith alone (*sola fides*) could bring salvation and guarantee entry to God's kingdom.²¹⁸

In addition to political and religious-moral argumentation, no other major justificatory themes emerged from the ordinances. On occasion ordinances did refer to other legal orders such as divine law, canon law, Roman law, or the law of nations. In 1580, for instance, Johan III reminded people that each member of an estate should stay in their own vocation since it was in accordance with "God's and human law".²¹⁹ Both canon and Roman law were invoked in the title of a *stadga* from 1554. The title was: King Gustav's Statute *Anno* 1554 on Breach of the Peace in Churches or on Roads *ex Jure Canonici & Civili*. According to the statute, it was forbidden, for instance, to engage in physical or verbal abuse of others inside a church, in the churchyard, or on the way to church.²²⁰ Moreover, international law, or the law of nations, was mentioned at least once. An ordinance written in German and which forbade sailing to the City of Riga (in present-day Latvia) declared that anyone who decided to defy the order would place himself in danger because "violence would be met with violence according to the law of nations".²²¹

However, these types of references to foreign law were very rare. This can be explained, of course, by the fact that jurisprudence was still practically non-existent in sixteenth-century Sweden. A university had been established in Uppsala in 1477 but its activity ceased in the 1530s. Because of King Gustav Vasa's finance policies and constant restlessness relating to domestic and foreign affairs, Uppsala University was only re-established in 1593 and the law faculty received its first professor in 1609. The most renowned sixteenth-century Swedish writer was Olaus Petri, a member of the clergy and advisor to Gustav Vasa. Petri is remembered by posterity first and foremost for his *brocardica* for which he utilised sources of old Swedish law, Roman law, canon law, German law, the Bible and Luther's writings.²²²

²¹⁸ On the Lutheran two-kingdoms theory, see Witte, *Law and Protestantism*, 87–117.

²¹⁹ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 300. "effter Gudz och menniskligh Lagh".

²²⁰ Schmedeman, *Justitie och Executions-Ähreder*, 29. "Konung Gustafs Stadga A:o 1554 om Kyrkiofred warder bruten i Kyrkio eller wäg ex Jure Canonici & Civili".

²²¹ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 494. "nach aller Völcker Recht, gewalt mit gewalt zu stewren".

²²² Lars Björne, *Patrioter och Institutionalister: Den nordiska rättsvetenskapens historia. Del I. Tiden före år 1815* (Lund: Institutet för rätthistorisk forskning grundat av Gustav och Carin Olin, 1995), 15–21.

LOGIC OF ORDINANCES

Impetus for Issuing Ordinances

What acted as a stimulus for issuing sixteenth-century Swedish police ordinances? Were they primarily given on the crown's own initiative or did subjects play a role in the process? One does not need to go beyond the ordinances in order to find answers to these questions. A quick glance at the preambles of police ordinances already reveals that the impetus for issuing ordinances often came, in fact, from the subjects themselves. This happened basically in three different ways: a certain societal evil could be brought to the king's attention by sending a petition, by sending a delegation to Stockholm, or by approaching the king during his stay in a certain region or town.

For instance, in 1546, Gustav Vasa gave a royal letter to the burghers of the Town of Gävle ordering that they could sail to any foreign port to sell their products. The thrust for the ordinance came from the burghers of Gävle themselves. Indeed, the royal ordinance began with a phrase saying

[a]s You beloved Subjects write and ask Our opinion whether You may sail and make a living as has been Your ancient custom, and which cities You may sail to [...].²²³

As noted, it was also common that a visit by a delegation (*sendebudh*) resulted in the issue of an ordinance. For example, the impulse for a *placat* on reduction of the king's share of all seal blubber came from a peasant delegation from Ostrobothnia (Finland). The *placat* stated that

[b]eloved Subjects We thus let You know that Your Delegation Hans Fordeel, Oloff Olsson and Josep Olsson have now here on Your all behalf Us visited and brought to Our attention that [...].²²⁴

Finally, in 1539, King Gustav Vasa issued a *patent* while visiting the Town of Vesterås. The ordinance prescribed that no one was allowed to hold common markets in the town "during ministerial conventions" (*presta-modz tijd*). The beginning of the ordinance stated how

Our beloved council of burgomasters and the people of the town of Vesterås have brought to Our attention how foreign merchants from Stockholm and

²²³ von Stiernman, *Commerce, Politie och Oeconomie* . . . I, 92.

²²⁴ *Ibid.*, 1018–1019.

other towns have lately held common markets in Vesterås, which has never been a custom in Vesterås.²²⁵

This time, the thrust for giving the ordinance came from the burghers and people of the town of Vesterås.

Examples of this kind are numerous in the empirical material. They attest to the fact that early modern police ordinances were not simply orders given from above. Instead, they were often the result of an initiative by subjects themselves. This picture chimes well with the views presented in recent studies on the history of petitioning in early modern Europe.²²⁶ A common feature of many of these studies is that they have “widened the conceptions of the early modern period that has so far usually been characterized by such terms as ‘tightening of control’, ‘state formation’, ‘reason of State’, ‘social disciplinization’, ‘police’ and ‘absolutism’”.²²⁷ These studies have shown that the political and juridical intercourse between the authorities and the people did not exclusively follow the ‘order/obedience’ logic of laws and decrees. Instead, the system of petitioning formed an important means of communication between the ruler and his subjects in the early modern period. Various types of petitions and letters – official and unofficial – were widely used in politics, administration and justice systems of early modern societies.²²⁸

Moreover, it has been shown how petitions (*Beschwerden*) of different kinds, e.g. *Gravamina*, *Supplikationen*, *Ordnungen* and *Artikel*, often contributed directly to the contents of late medieval and early modern police ordinances in German territories. It was common for the Assemblies of the Diet in different territorial states (*Landtagen*) to draw up petitions to

²²⁵ Ibid., 56.

²²⁶ See e.g. L. H. van Voss, ed., *Petitions in Social History* (New York – Melbourne: Cambridge University Press, 2001); Cecilia Nubola and Andreas Würzler, ed., *Forme della comunicazione politica in Europa nei secoli XV–XVIII: Suppliche, gravamina, lettere/Formen der politischen Kommunikation in Europa vom 15. bis 18. Jahrhundert: Bitten, Beschwerden, Briefen* (Bologna/Berlin: Duncker & Humblot, 2004); Cecilia Nubola and Andreas Würzler, ed., *Bittschriften und Gravamina: Politik, Verwaltung und Justiz in Europa (14.–18. Jahrhundert)* (Berlin: Duncker & Humblot, 2005).

²²⁷ Cecilia Nubola and Andreas Würzler, “Politische Kommunikation und die Kultur des Bittens,” in *Forme della comunicazione politica in Europa nei secoli XV–XVIII: Suppliche, gravamina, lettere/Formen der politischen Kommunikation in Europa vom 15. bis 18. Jahrhundert: Bitten, Beschwerden, Briefen*, ed. Cecilia Nubola and Andreas Würzler (Bologna/Berlin: Duncker & Humblot, 2004), 11–12.

²²⁸ On communication in the late medieval and early modern period in general see e.g. H. Kühnel, ed., *Kommunikation und Alltag in Spätmittelalter und Früher Neuzeit. Internationaler Kongress Krems an der Donau 9. bis 12. Oktober 1990* (Wien: Verlag der Österreichischen Akademie der Wissenschaften, 1992).

highlight societal problems that needed to be addressed. It often happened that petitions were further edited by an especially appointed commission and made into individual ordinances or even encompassing 'territorial police orders' (*Landesordnungen*) to be published by the prince. Police ordinances not only piggybacked the material contents of petitions but also copied the legitimating arguments of petitions. An argument that prevailed over other arguments was the 'common good' (*gemeiner Nutzen*). This concept was initially used as an argument for issuing local ordinances in towns but through princely police ordinances it also became the legitimating ground for the functions of territorial states.²²⁹

It would thus be highly misleading to characterise early modern police ordinances simply as a means of control that sprang from above, i.e., from rulers. Subjects also knew how to take advantage of the system and to bring about ordinances that benefited them on a local or regional level. Regarding early modern German territorial states, it has been argued that police ordinances should be seen as 'communicative action' (*kommunikatives Handeln*) between authorities and local communities. In particular, studies that have concentrated on implementation of police ordinances have revealed that all parties, i.e., central authorities (the lawgiver), local authorities (executives), and local communities (addressees), exploited the system of police ordinances. For instance, it was common for addressees to send petitions to rulers in order to obtain concessions to the provisions declared in police ordinances. This was a way to adjust general norms to fit local circumstances. Furthermore, police ordinances were also used as a means of getting rid of unwanted social fabric on a local level. Subjects actively helped local authorities in implementing police ordinances.²³⁰

Even though implementation of police ordinances falls outside the scope of this study, the Swedish ordinances explicitly reveal the communicative character of early modern police ordinances. The fact that many ordinances were initiated by local communities, say, peasants complaining about unlawful demands for hospitality and transportation or city burghers complaining about illegal trade in the countryside, already testify to communication between the central authority and local communities. This does not mean, of course, that rulers did not use ordinances for their

²²⁹ Peter Blickle, "Beschwerden und Polizeien: Die Legitimation des modernen Staates durch Verfahren und Normen," in *Gute Policy als Politik im 16. Jahrhundert: Die Entstehung des öffentlichen Raumes in Oberdeutschland*, ed. Peter Blickle et al. (Frankfurt am Main: Vittorio Klosterman, 2003).

²³⁰ Holenstein, "Umstände"; Landwehr, "Policy vor Ort".

own purposes, for instance, when issuing ordinances on customs tariffs and excises. It is simply to say that to characterise early modern states as 'police states' (in the negative meaning of the term) is misleading to say the least.

Addressees

It is clear that most police ordinances were addressed to the subjects of the crown and the inhabitants of the realm. However, much variation existed in regard to the 'scope of application' of ordinances. The most general ordinances of course concerned the whole Swedish realm. For instance, an open letter on the trade of oxen from 1523 was directed "to all corners of the country throughout the whole common realm".²³¹ In 1536, Gustav Vasa issued a letter "to all Seatowns here in the Realm on sailing to German towns".²³² Ordinances with a more restricted scope were also given. Ordinances were commonly addressed to individual provinces. For instance, in 1537 a letter on oak and beech forests was issued to the Province of Småland.²³³ The following year, the Province of Helsingeland received a letter concerning illegal trade in the countryside.²³⁴ Furthermore, some ordinances were given to individual towns and trades, such as an open letter to the butchers of Stockholm saying that they could purchase animals outside the city walls.²³⁵ Ordinances of limited scope were common, in fact more common than general ones, throughout the sixteenth century.

Subjects were not, however, the only addressees of ordinances. Indeed, the majority of ordinances also included provisions directed to authorities, both royal and local. It was common for an ordinance to end with a note saying that the authorities were obliged to enforce the provisions of the ordinance. A *patent* on the obligation to use designated roads from 1540 stated that

ordering thus Our governor, cavalry captain and other good men who hold authority on Our behalf in Västergötland that they keep a sharp eye on this matter and that they publish and announce this Our Mandate everywhere and so often as is needed so that each and everyone can act accordingly.²³⁶

²³¹ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 26.

²³² *Ibid.*, 36.

²³³ *Ibid.*, 41.

²³⁴ *Ibid.*, 45.

²³⁵ *Ibid.*, 93.

²³⁶ *Ibid.*, 62.

The authorities were also ordered not to forbid or restrain subjects from doing something that ordinances mandated them to do. For instance, the above-mentioned open letter to the butchers of Stockholm ended by ordaining that “Our bailiffs and sheriffs [...] shall not set hindrances or impede the above-mentioned butchers from using their right in an honourable way”.²³⁷ Sometimes these provisions were accompanied by provisions on punishments for failing to enforce royal orders. A *mandat* on the copper trade from 1580 stated that “the bailiffs and sheriffs are to keep a close eye on the mandate being obeyed inasmuch as they wish to avoid Our highest disgrace and punishment.”²³⁸ A *placat* on malpractices in trade (illegal trade in the countryside among other things) from 1580 prescribed fines for authorities that failed to fulfil their supervisory duty. A governor was liable to pay a fine of one hundred thalers, a bailiff fifty thalers, and a priest forty thalers.²³⁹ Furthermore, regulations were not only given to royal authorities but also to town authorities such as burgomasters and town councils. A *placat* on excise tariffs on foreign drinks also ordered the burgomasters and town council to ensure that no one sold drinks at too high a price.²⁴⁰

Sixteenth-century police ordinances can thus be characterized as an amalgam of general ordinances addressed to subjects and administrative regulations directed to authorities. To be sure, ordinances mainly included provisions for subjects, i.e., peasants, tradesmen, merchants, the clergy, the nobility, and so on. Nevertheless, ordinances did include provisions for royal and local authorities as well. In fact, in the early modern period local and central authorities and the emerging administration in general were as much actors as addressees and objects of ‘good police’. Through police regulation authorities were not only given new tasks but they also came under tighter control. Local authorities were gradually ‘disciplinised’ and integrated into the emerging state apparatus. Of course, this took several centuries and local authorities often acted as mediators between local communities and central government.²⁴¹

²³⁷ Ibid., 93.

²³⁸ Ibid., 290.

²³⁹ Ibid., 308–309.

²⁴⁰ Ibid., 292.

²⁴¹ Karl Härter, “Die Verwaltung der ‘guten Policey’: Verrechtlichung, soziale Kontrolle und Disziplinierung,” in *Herrschaftsverdichtung, Staatbildung, Bürokratisierung. Verfassungs-, Verwaltungs- und Behördengeschichte der Frühen Neuzeit*, ed. Michael Hochedlinger and Thomas Winkelbauer (Wien: Böhlau Verlag/München: Oldenburg Verlag, 2010).

The fact that authorities were also addressees of many police ordinances indeed suggests that the crown's grasp of its own authority was not yet very strong in Sweden during the sixteenth century. It was, after all, only at the beginning of that very century that Gustav Vasa started to strengthen crown authority at local level by introducing bailiffs and other royal authorities. Those authorities needed constantly to be reminded of their duty to enforce royal police ordinances. The picture that emerges from police ordinances is verified, in fact, by Mats Hallenberg's study on sixteenth-century bailiffs where he has, for example, examined a register of appeals against bailiffs by the common people. The register reveals that abuse of authority was almost an everyday business for bailiffs. Bribery, illegal administrative fees, unlawful demands for labour, violence and outright theft were common and even 'structurally conditioned' amongst bailiffs. The motive was always the same: to increase personal power and property.²⁴²

During the seventeenth century, orders addressed to the royal authorities in general police ordinances gradually started to disappear. This was caused by the modern governmental system set up by Gustav II Adolf which was based on central agencies and regional administration. Due to this administrative reform, a clearer divide was made between ordinances addressed to subjects and administrative regulations given to royal authorities. This change can easily be discovered from the empirical material of this study, i.e., compilations of police ordinances. As already mentioned, towards the end of the seventeenth century, these compilations include more and more administrative regulations to various crown authorities.

Recurrence of Ordinances

A phenomenon that can clearly be noticed from the empirical material of this study is the recurrence of ordinances. It has become evident by now that several ordinances were issued on the same subject matter during the first research period. For instance, a total of twenty ordinances were given on unlawful demands for transportation and/or hospitality between 1523 and 1611, i.e., a new ordinance was issued every four and a half years on average.²⁴³ Why were police ordinances on the same subject matter

²⁴² Hallenberg, *Kungen, fogdarna och riket*, 351–401.

²⁴³ See above pp. 51–52.

given so often? An obvious answer would be the ineffective nature of early modern governmental execution machinery. Police ordinances had to be issued time and again because subjects did not follow them. There simply were not enough executive authorities who could have enforced the provisions of police ordinances. The Swedish material seems to support this interpretation. Here, ordinances on unlawful demands for transportation and/or hospitality serve as a good example. The fact that people continuously appealed to the crown to put a stop to an unlawful practice and that the crown repeatedly issued new ordinances bears witness to deficiencies in the enforcement system.

However, in regard to early modern German police legislation it has been argued that the 'enforcement deficit' (*Umsetzungsdefizit*) was not the only motive for repeatedly issuing police ordinances. In addition to inefficiency of enforcement, the recurrence of police ordinances can be explained by at least three other factors. First, the need to give ordinances with more or less the same content was sometimes a result of a change of ruler. It has been argued that in order to secure and legitimise continuity of authority (*Herrschaft*) new rulers often gave their confirmation to old ordinances by issuing them anew.²⁴⁴ Secondly, new ordinances occasionally had to be given to adapt to new circumstances. For instance, technical improvements within the 'weapons industry' could make old ordinances obsolete.²⁴⁵ Thirdly, as already indicated, new ordinances were also given to moderate and make exceptions to previous more general ordinances.²⁴⁶ The need to give new ordinances of course depended on the subject matter that was regulated. As already indicated above, ordinances on the correct value of coins, for instance, were given reasonably often due to the crown's need for silver for other purposes.

Evidence of the need to legitimise a new ruler's authority by issuing old ordinances anew can also be found in Swedish police ordinances. For instance, the first police ordinance that appears in the empirical material

²⁴⁴ Martin Dinges, "Normsetzung als Praxis? Oder: Warum werden die Normen zur Sachkultur und zum Verhalten so häufig wiederholt und was bedeutet dies für den Prozeß der 'Sozialdisziplinierung'?", In *Norm und Praxis im Alltag des Mittelalters und der frühen Neuzeit*, ed. Gerhard Jaritz (Wien: Verlag der Österreichischen Akademie der Wissenschaften, 1997), 43–44; Michael Frank, "Exzeß oder Lustbarkeit? Die policeyliche Reglementierung und Kontrolle von Festen in norddeutschen Territorien," in *Policey und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 172–178.

²⁴⁵ Dinges, "Normsetzung als Praxis?", 44–45.

²⁴⁶ Holenstein, "Umstände".

given by Erik XIV in 1561 (after his father Gustav Vasa's death in 1560) dealt with a ban on exporting vital domestic animals abroad. The ordinance stated that

[a]nd although His Royal Majesty, Our beloved Father (peace to his memory now with almighty God) often with his Royal Majesty's open Mandates and otherwise, forbade, so will also We [...] that no goods shall be exported for the detriment of the Realm and its inhabitants.²⁴⁷

Likewise, Johan III, Erik XIV's brother and successor, stated in his first royal police ordinance that

We have detected, amongst other deficiencies, a detrimental disorder concerning Swedish coins, namely, that they are valued lower than their correct value even though the value of coins was already redefined during Our brother, King Erik's time, in comparison to what they were before, during Our blessed and beloved father's, peace to his memory, King Gustav's Government.²⁴⁸

This gave Johan the excuse to ordain how Swedish coins were to be valued in comparison to other currencies.

Police ordinances were repeatedly given also in order to make local adjustments to earlier ones. In 1606, Karl IX issued a general Toll and Exchange Order (*wexel- och tull-ordning*) which set toll tariffs and prices for various products.²⁴⁹ However, already in the following year a new ordinance was given concerning the overseas towns of Narva and Reval (Tallinn). The ordinance stated that

because it has been brought to [Our] attention that some people find themselves burdened with what has been thought in the previously published Order, so We have agreed to and conceded that foreign merchants may practice trade in Our Town of Narva [in the following way ...].²⁵⁰

This is but one example of the continuous communication that took place between rulers and people.

Police Ordinances and Medieval Law

As mentioned in the introductory chapter of this study, the question about the relationship between early modern police ordinances and the

²⁴⁷ von Stiernman, *Commerce, Politie och Oeconomia* ... I, 174.

²⁴⁸ Ibid., 201; see also pp. 399, 404–405.

²⁴⁹ Ibid., 511–517.

²⁵⁰ Ibid., 530.

older, medieval law codes lies at the centre of this study. Did police ordinances include references to King Kristoffer's Law of the Land of 1442 or Magnus Eriksson's Town Law of the 1350s? Did police ordinances include same provisions as the medieval law codes did? Or, were police ordinances independent of these law codes? As stated in the first chapter, the purpose of these questions is to find out if police ordinances really dealt with matters that were "more prone to change" in comparison to matters dealt with in the law codes as was claimed in eighteenth-century Sweden. However, before dealing with these questions, a short glance at the medieval law codes is necessary.

The 1442 Law of the Land was in fact chiefly a consolidated version of the older, King Magnus Eriksson's Law of the Land from the mid-fourteenth century. It has been shown that the 1442 Law Code entailed only minor alterations to the earlier code. Magnus Eriksson's Law of the Land was an attempt to strengthen the king's grasp on government and administration of justice in Sweden. Instead of each province having its own law (*landskaplag*), Magnus Eriksson wanted a single law to be drawn up that would be valid throughout the realm. To be sure, Eriksson's Law of the Land was still to a large extent based on earlier provincial laws, especially in matters concerning matrimony, inheritance, trade, land use, crime, and district court sessions. However, Magnus Eriksson incorporated in his law new provisions on the ban against illegal demands for hospitality and transportation, 'king's jury' (*konungens nämnd*), and the election of the king. These provisions were not totally new because they were based on earlier royal statutes (*stadgor*) which former kings had been issuing together with the nobility. The idea was to make these provisions part of the general law and thereby to strengthen their status. When King Kristoffer gave his confirmation to the Law of the Land, some further provisions of earlier royal statutes were incorporated in the law code. The idea was to make the Law of the Land clearer, not to give new law which would have required the assent of the people.²⁵¹

The making of the 1350s Town Law was also initiated by King Magnus Eriksson and was intended to be used in the towns of Sweden, especially in Stockholm which was on the way to becoming the most important town in the realm. The motive behind the enterprise was the same as with enacting a general Law of the Land, i.e., to strengthen the king's influence

²⁵¹ Åke Holmbäck, introduction to *Magnus Erikssons Landslag: I nusvensk tolkning*, ed. Åke Holmbäck and Elias Wessén (Lund: Institutet för rätthistorisk forskning grundat av Gustav och Carin Olin, 1962).

over government and adjudication, only this time in Swedish towns. It has been estimated that approximately one third of the provisions of the Town Law were taken from the Law of the Land dating from only a few years earlier. One sixth of the provisions originated from the earlier medieval law that was applied in trading centres, the so-called *bjärköarätt*. The rest of the Town Law, i.e., half, included new law whose sources are unknown. This new law included, among other things, provisions on the king's rights in respect to towns such as provisions on the king's right to a share of all town income and to impose taxes.²⁵²

In regard to the first research period, the link between police ordinances and medieval law was evident. As already indicated above, sixteenth-century police ordinances to a large extent regulated the same matters that were already regulated in medieval law. Police ordinances could sometimes even embody the same provisions as the medieval law codes did. Bans on illegal trade in the countryside, prohibitions of unlawful demands for hospitality and transportation, orders to build taverns, criminalization of adultery and other sexual crimes, orders to set up hop gardens, regulations on hunting, prohibitions on cutting down trees, orders to build roads, restrictions on the number of wedding and funeral guests, provisions on correct fair times, regulations on correct weights and measures, and the like were all matters already regulated in medieval law.

Indeed, ordinances commonly included a reference to the "Law of Sweden" (*Sweriges lag*). This expression is to be understood as a reference to both the 1442 Law of the Land and the 1350's Town Law. The reference point in ordinances was thus the written Law of Sweden. In fact, some ordinances incorporated expressions such as "the written Law of Sweden". For instance, Gustav Vasa stated in an ordinance from 1533 that "illegal trade is [...] against Swedish written law".²⁵³ Normally, ordinances simply referred to law codes *in abstracto*. For instance, phrases such as "will be punished according to Swedish law",²⁵⁴ "inhabitants should prac-

²⁵² Elias Wessén, introduction to *Magnus Erikssons Stads lag i nusvensk tolkning*, ed. Åke Holmbäck and Elias Wessén (Lund: Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin, 1966), xlviii–liv.

²⁵³ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 31. "*olaga köpslagenn som ähr [...] emot Swerigis beskreffne Lag*". See also pp. 67, 82, 138, 273, 379.

²⁵⁴ *Ibid.*, 42. "*epter Sweriges Lag straffat bliffue*". See also pp. 59, 71, 82, 159, 168, 180, 182, 223, 237, 254, 262, 273, 287, 300, 328, 354.

tice trade in accordance with Swedish law",²⁵⁵ and "illegal trade in the countryside and fairs are against Swedish law"²⁵⁶ were reasonably common. Sometimes, explicit references were also made to Magnus Eriksson's Town Law. For instance, the Order on Exchange Rates (*wexel ordnig*) from 1605 stated that those who violated the order were to pay fines "according to Our Town Law".²⁵⁷

Even though the Law of Sweden was often invoked, only extremely seldom was an explicit reference made to a particular section or paragraph. In 1584, two ordinances were given in order to combat all illegal demands for hospitality and transportation. Both ordinances declared that taverns should be established by common highways all over the realm as "Swedish law explicitly says and declares in the 24th section of the *Konungsbalken*".²⁵⁸ Some ordinances indirectly invoked the paragraphs of the law codes. For instance, the Ordinance on Tolls and Excises from 1552 declared that those who appeared at customs under a false name were to lose their goods and "to be punished similarly as those for second time theft".²⁵⁹

The general nature of references to the medieval law codes leads one to conclude that law codes were widely known among subjects due to their customary nature. In other words, it was not important to refer to the correct paragraph of the law but instead to law in general. Indeed, it has been argued that the Swedish concept *lag* (German *Gesetz*) in the sixteenth century still stood more or less as a synonym for law in the broader meaning, i.e., *rätt* (German *Recht*). Law's legitimacy was based on custom and not on the fact that it was written.²⁶⁰

The fact that sixteenth-century police ordinances to a large extent regulated the same social phenomena as did the medieval law codes gives reason to claim that sixteenth-century police ordinances were not yet very creative or dynamic in nature. The kings were mostly repeating the

²⁵⁵ Ibid., 56. "Inbyggere gore brugendes sedhan theres redelig handtering och köpmand-zhandell effter Sweriges lagh". See also pp. 118, 205, 220, 275, 340, 341, 356, 432, 1018.

²⁵⁶ Ibid., 58. "olaga landzköp eller marcknader emott Sweriges lag". See also pp. 146, 206, 235, 347.

²⁵⁷ Ibid., 503. "efter Wår Stadz-Rätt". See also pp. 11, 501.

²⁵⁸ Ibid., 327, 332. "efther som Sueriges lagh uttryckeligen förmåler och uthuijser i Konungz balken i thet 24. Capitlet". See also Schmedeman, *Justitiæ och Executions-Åhreender*, 8, 66, 98, 108. *Konungsbalken* was the chapter concerning the election of the king, the rights and duties of the king, etc.

²⁵⁹ von Stiernman, *Commerce, Politie och Oeconomie... I*, 128. "och straffes som för annan Tiufnad". See also pp. 170, 177, 202, 213, 318.

²⁶⁰ Pia Letto-Vanamo, "Synpunkter på rättens begreppshistoria," *Historisk Tidskrift för Finland* 92 (2007), 20–21.

provisions of medieval law codes in their ordinances. The situation in Sweden corresponds largely to the situation in contemporary Germany. It has been argued that in sixteenth-century German territories the law-giving (*Gesetzgebung*) of rulers was more akin to 'execution of norms' (*Normdurchsetzung*) than 'production of norms' (*Normerzeugung*). In Germany, too, police ordinances were tightly tied to law; law being understood first and foremost as customary law (*Gewohnheitsrecht*). Through issuing police ordinances, rulers sought to strengthen and stabilise the old medieval law. In fact, in many territories the innovativeness of police ordinances was often restricted to mere codifications of the oral decisions of courts.²⁶¹

As mentioned above, according to sixteenth century German legal doctrine rulers could not violate old customs based on law with their ordinances. Kings were merely seen as custodians of law (*custos legum*) whose task was to ensure that laws were abided by. This conception of rulership does not yet embody a 'voluntaristic understanding of legal norms'. Law was not yet conceived as an instrument but rather as a constraint of political action.²⁶² In this regard the situation in Sweden was also similar to Germany. The numerous references to the Law of Sweden (*Sweriges Lag*) suggest that law was something that kings could not diverge from. On the contrary, law was invoked to legitimate police ordinances.

However, kings should not, of course, simply be regarded as benevolent executives of old customary laws. The rulers had much to gain from issuing police ordinances. Giving police ordinances must also be seen as a way of strengthening royal authority. By constantly giving new police ordinances the rulers signalled to their subjects that execution of laws was a societal task that exclusively belonged to the crown. This 'monopolization of law-giving powers' (*Monopolisierung der Normgebungskompetenzen*) went hand in hand with the monopolization and centralization of criminal justice.²⁶³ It has also been argued that through police ordinances and police authorities the central government managed to respond to subjects' 'need for security' in troubled times. For instance, in fourteenth-century France, famine and plague caused constant insecurity among the people. By preventing these societal evils through police regulation the kings tried

²⁶¹ Simon, "Gute Policy", 188–191.

²⁶² See above pp. 22–23.

²⁶³ Härter, "Edition," 131; Härter, "Social Control," 47–52.

to restore peace and security in society and, at the same time, strengthen the bond between them and their subjects.²⁶⁴

SUMMARY

During the first research period of 1523–1611, the four compilations of police ordinances included 293 ordinances regulating a total of 416 police matters. Most of these matters (66 %) concerned the economic system and professions (the fourth main category). Issues such as trading rights, control of prices, export bans, customs duties and excise, and inns and taverns were all subjects of royal police legislation. Furthermore, concern about public safety and order (the second main category) is also clearly manifest from the ordinances; 16 % of all police matters dealt with these issues. The biggest single concern was continuous unlawful demands for transportation and hospitality by the nobility to the common people. The majority of all police ordinances touched upon issues that were already regulated in the medieval law codes, i.e., the 1442 Law of the Land as well as the 1350s Town Law. However, new regulation also had to be given due to changed societal circumstances. For instance, the Swedish Reformation caused new problems such as jurisdictional questions concerning priests in secular criminal matters that needed to be resolved through issuing royal police ordinances. Additionally, numerous ordinances were given on the value of money – a subject not dealt with in the medieval law codes.

Issuing sixteenth-century police ordinances was justified by various reasons in the preambles to the ordinances. These reasons were categorized into two major themes: political arguments and religious-moral arguments. Among the political reasoning two main arguments were utilized: 1) the benefit of the realm and its inhabitants and 2) good order. According to contemporary political theory, God had appointed kings to their throne and it fell upon their royal office to attend to the well-being of their subjects and the whole realm. All royal legislation – be it prevention of criminality or promotion of commerce – happened for the benefit of the realm and its inhabitants. From the middle of the sixteenth century, good order or ‘good police’ (*god politie*) also began to be used as legitimization for ordinances. This order was still conceived as a religious-moral order preordained by God. In regard to religious-moral argumentation,

²⁶⁴ Kropf, “Begriff,” 513–514.

one argument was above and beyond others: the fear of God's wrath. If people would not act according to the ordinances, God would send his torments and plagues over the Swedish realm and its people. Finally, the ordinances included some legal argumentation – although to a lesser degree. Some sporadic references were made to other legal orders such as Roman law, natural law, the law of nations, divine law, and canon law.

In regard to the logic of sixteenth-century police ordinances, several questions were addressed. First, it was asked what functioned as the impetus for issuing ordinances. The preambles to the ordinances revealed that an individual societal problem was brought to rulers' attention either by a petition sent to the king or a delegation visiting the court. This, in turn, resulted in the issue of an ordinance. By no means should sixteenth-century police ordinances be regarded as regulation *von oben*. Instead, as has been pointed out in recent research on early modern police, police ordinances and their execution formed an institutional setting for communication between the central authorities and people at local level. Secondly, police ordinances were, of course, primarily addressed to the common people. However, many sixteenth-century ordinances also included clear orders to the king's authorities at local level. This attests to the fact that the administrative system was fairly undeveloped and the local authorities were still fairly independent during the sixteenth century. Thirdly, the question of the reasons for recurrence of police ordinances was pondered because several ordinances on the same matter were issued time and again. The conclusion was that ordinances were not simply issued anew because of the 'enforcement deficit' caused by inefficient execution machinery. Repeated ordinances on the same police matters were also given because newly enthroned rulers wished to legitimize their personal *Herrschaft*. Repeated ordinances were also given because minor alterations and adjustments needed to be made to previous ordinances. For instance, the value of Swedish coins needed constantly to be redefined due to the crown's need of silver. Fourthly, the relationship between royal police ordinances and medieval law codes (i.e. the 1442 Law of the Land and the 1350s Town Law) was studied. It turned out that the majority of all sixteenth century police ordinances dealt with issues that were already regulated in the law codes. These were bans on illegal trade in the countryside, prohibition of unlawful demands for hospitality and transportation, orders to build taverns, criminalization of adultery and other sexual crimes, orders to set up hop gardens, regulations on hunting, prohibitions on cutting down trees, orders to build roads, restrictions on the number

of wedding and funeral guests, provisions on correct fair times, and regulations on correct weights and measures. This warrants the argument that sixteenth-century police ordinances were not still very 'creative' in nature. To a large extent, they renewed and reproduced the provisions of the medieval law codes instead of making new law. Nevertheless, this benefited the rulers in their attempt to monopolize both the criminal justice system as well as their law-giving powers.

CHAPTER FOUR

ROYAL POLICE ORDINANCES BETWEEN 1612 AND 1718: MAKING NEW LAW

SWEDISH SOCIETY DURING THE SEVENTEENTH CENTURY

We shall see further, how we both gained strength and, occasionally, through rough and restless wartimes weakened, and especially given the high price paid we can never fully cherish the memory of King *GUSTAV ADOLF* who, in the middle of the highest flames of war and while expanding the boundaries of the realm with his own blood and greatest conquests, nevertheless managed to give the wisest household laws, and who therefore should be regarded as the originator of the respectable handicrafts and advantageous trades in this solid and ancient realm.¹

This passage, taken from the prologue to the index of all the royal police ordinances included in the first five volumes of Stiernman's compilation, indicates the year from which the second research period begins, i.e., 1612, when Gustav II Adolf became king of Sweden.² In Swedish historiography the period between 1611 and 1718 has been called the 'Great Power Era' (*stormaktstiden*).³ During that period, the Swedish realm expanded aggressively in the Baltic Sea area. Almost the entire seventeenth century was marked by continuous wars against Denmark, Poland and Russia. During the Thirty Years War Sweden was also in open military conflict with the Holy Roman Empire. By the 1660s, Sweden had conquered vast areas all around the Baltic Sea, e.g. Scania, Bremen and Verden, Wismar,

¹ Anders Anton von Stiernman, comp., *Register Öfwer Innehållet Af alla Fem hittills utkomne Delar Af Kongl. Bref, Stadgar och Förordningar etc. Angående Sweriges Rikes Commerce, Politie och Oeconomie* (Stockholm: 1771), Företal. "Vi se och häraf widare, huru wi både tiwäxat, och understundom medelst bullersamma och oroliga Krigs-tider aftagit, och kunne i synnerhet uti dess dyra mull aldrig tilfyllest wörda Högsrsalig i äminnelse Konung GUSTAF ADOLPH, hwilken mitt under starkaste Krigs-låga och under det, at han med egit blod utwidgade sitt Rikes Landamären, medelst största eröfringar, ändock was Stiftare för de wisaste Hushålls-Lagar och nästan at anse såsom en Stamfader för hedrande Slögder och båtande Näringar, i detta fast urgamla Rike."

² In fact, Gustav II Adolf was enthroned on 30th October 1611.

³ On the Great Power Era and its sixteenth-century roots see Michael Roberts, *The Swedish Imperial Experience 1560–1718* (London & New York & Melbourne: Cambridge University Press, 1979).

Nether Pomerania, Livonia, Estonia, Ingria and Karelia, effectively controlling commerce in the Baltic Sea. The will to control commerce and to increase crown income, concern for internal security, and the fight against Catholicism have all been mentioned as motives behind the strife for domination of the Baltic Sea.⁴

Towards the end of the Great Power Era, the Swedish system of government had developed into absolutism. The period that starts from the enthronement of Karl XI (1672–1697) in 1672 and ends with the death of his son Karl XII (1697–1718) in 1718 is called the ‘Karolinian absolutism’ (*karolinska enväldet*). In 1673, Karl XI carried out a reduction of the nobility’s landed property that had already been decided in 1655. In the reduction the nobility lost one fourth of all the land grants that it had received from the crown since 1632. This way the crown was able to increase its tax revenue and pay its debts caused by continuous warfare. Unlike his predecessors, Karl XI based his policies on support from the lower nobility and independent peasantry. Karl XI placed the central administration and its key officials under his direct control. Additionally, the Diet lost its influence on matters that had traditionally fallen within its competence, namely lawgiving, taxation and foreign policy.⁵

In the long run, the governance of Swedish overseas provinces proved an impossible task not least because of opposition by the local nobility in the provinces and the strengthening of old rivals, especially Russia. Young Karl XII aggressively attempted to secure the Swedish provinces – without success, however. He then turned his eyes towards the west, i.e., Norway. However, in 1718, during a campaign against Norway, Karl was killed in battle. His death put an end to Sweden’s aggressive policy of conquest. The nobility was unwilling to wage war abroad and desired peace. Eventually, as a result of the Great Northern War (1700–1721) Sweden lost most of its provinces and so the age of great power and absolutism witnessed its end.⁶

Despite continuous warfare, important steps were taken in the seventeenth century in Sweden in the fields of administration and economy – as the above quotation also indicates. Indeed, administration witnessed considerable changes in the course of the seventeenth century. Reform

⁴ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 102–123; see also Kent, *Concise*, 70–77.

⁵ Lindkvist and Sjöberg, *Det svenska samhället 800–1720*, 403–418.

⁶ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 174–194; see also Kent, *Concise*, 86–94.

of both central and local government was carried out, this time for good, during Gustav II Adolf's (1611–1632) reign and shortly thereafter. In actual fact, it was Axel Oxenstierna (1583–1654), who was appointed in 1611 as Chancellor (*rikskansler*) and who became the king's close friend and adviser, who was the driving force behind the administrative reforms. In 1614, the first Court of Appeal (*Svea hovrätt*) was established in Stockholm. It was to serve as a Royal Court for the whole of Sweden. In 1618, the Chamber of Finances achieved relatively independent status and was led by the Lord of the Chamber together with the Chief of Taxation (*riksskattemästare*). Finally, in 1626, the Chancellery was reorganized and divided into several departments with specific tasks. What was new was that the Chancellery functioned collegially under the Chancellor and two Chancellery Counsellors (*kansliråd*). Local government was also remodelled. Through the 1635 Statute on Governors (*landshövdingestadga*) each province received a governor under whose authority the bailiffs were now set.⁷

Moreover, the mining industry grew increasingly important in the course of the seventeenth century. The main export articles were copper and iron. Whereas the crown still had a monopoly in the mining industry during the sixteenth century, the situation changed during the seventeenth century when the crown started to sell and rent its mines. The motive for this change was the crown's desire to obtain currency directly in the form of taxes, customs duties and excises instead of first having to produce and sell metal products. Thanks to foreign expertise the proportion of refined products increased towards the end of the seventeenth century. Eventually, copper and iron formed 80 % of all Swedish exports. Constant demand for copper and iron in Europe secured steady earnings for the Swedish crown and partly helped it to finance the ever increasing costs of warfare.⁸

In addition to the mining industry, other areas of pre-industrial production also developed during the seventeenth century. One of these was manufacturing industry. Various metal and textile manufactories were established in Sweden in the course of the century. However, it is difficult

⁷ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 89–94; Rosén, *Svensk historia*, 399–407; see also Michael Roberts, *Gustavus Adolphus* (London and New York: Longman, 1992), 73–89.

⁸ Heckscher, *Sveriges ekonomiska historia . . . I*: 1, 145–171; Eli F. Heckscher, *Sveriges ekonomiska historia från Gustaf Vasa: Före frihetstiden I:2* (Stockholm: Albert Bonniers Förlag, 1936), 438–506; Rosén, *Svensk historia*, 360–361, 424–427; see also Kent, *Concise*, 58–59, 67–69, 77–78.

to evaluate the practical value of different manufactories for economic life in Sweden.⁹ Tar burning became an important industry for Sweden in the seventeenth century. In fact, throughout the century, tar was the third biggest export product after copper and iron and Sweden became one of the most important producers of tar and pitch in the European market.¹⁰ To promote the export of domestic items and commerce with new areas, several international trading companies were established in Sweden during the seventeenth century.¹¹

So, despite continuous warfare, the Swedish state managed to develop its administrative system and economic life on the domestic plane. In fact, Jan Glete has claimed that it is exactly largely *because* of warfare that the administration and economy were modernized in Sweden during the sixteenth and seventeenth centuries. Modern administration was one of the contemporary 'innovations' that served as a cause of success for Sweden's military based expansionist policy. The seeds of the seventeenth century Great Power Era were already sown during Gustav Vasa's reign when the system of local bailiffs directly responsible to the crown was established. Setting up the central and regional administration only reinforced the crown's ability to collect taxes and thus to finance warfare.¹² An important aspect of building up the seventeenth-century Swedish military state was of course war propaganda. This was disseminated through sermons, local administration and printed media. The Diet was also used as a channel for legitimizing warfare especially in order to convince the representatives of the peasantry of the necessity for the sacrifices that the wars demanded.¹³

Such were the political and economic circumstances in Sweden during the second research period of 1612–1718. These changes in economic life and administration are detectable in seventeenth-century police ordinances, which will be scrutinized next.

⁹ Heckscher, *Sveriges ekonomiska historia* ... I: 2, 507–514.

¹⁰ Ibid., 433–437.

¹¹ Ibid., 592–601.

¹² Jan Glete, *War and the State in Early Modern Europe: Spain, the Dutch Republic and Sweden as fiscal-military states, 1500–1660* (London and New York: Routledge, 2002), 174–217.

¹³ See Anna Maria Forssberg, *Att hålla folket på gott humör: Informationsspridning, krigspropaganda och mobilisering i Sverige 1655–1680* (Stockholm: Stockholms universitet, 2005).

FIELDS OF REGULATION

From the period between 1612 and 1718, a total of 943 police ordinances are included in the four compilations of police ordinances. However, if these ordinances are assessed by the number of various police matters regulated in them, the total will reach 1 013 matters. In comparison to the first research period of 1523–1611, the number of police ordinances had increased over threefold ($n=293$). At the same time, however, the number of all regulated police matters had increased only by 240 % ($n=416$). This indicates two things. Firstly, the need to give police ordinances expanded in the seventeenth century. Secondly, the police ordinances that were issued in the seventeenth century were more focused in their material scope whereas in the sixteenth century a single police ordinance could still have regulated several different police matters. This tendency corresponds to developments in German territories where police ordinances quantitatively increased and qualitatively differentiated towards the end of the eighteenth century.¹⁴

If we compare the relative proportion of the five main groups of police matters of the second research period to that of the first research period, we can see that no significant change took place in this respect. The economic system and professions still formed the biggest main group of police matters amounting to up to 64 % of all police matters. Likewise, matters concerning public safety and order were the second biggest main group with 15 %. Again during the second research period, the compilations included only a handful of ordinances concerning poor relief, public health, education and schooling, and culture.

¹⁴ Härter, "Edition," 132, 137–138.

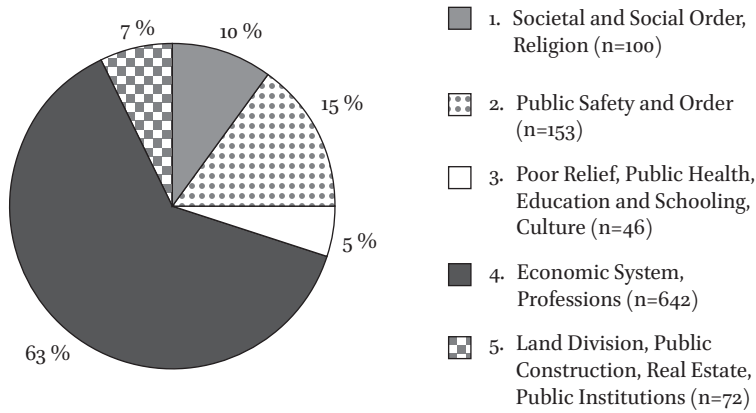


Chart 2: Police Matters 1612–1718

Societal and Social Order, Religion

Matters of societal and social order, and religion formed 10 % of all police matters during the second research period whereas in the first research period the percentage was sixteen. Now, the total number of these matters was 100. This category is further divided into seven sub-categories as indicated in Table 6.

Table 6: Matters of Societal and Social Order, Religion 1612–1718 (n=100)

1.1	1.2	1.3	1.4	1.5	1.6	1.7
Matters of Religion	Population and the Estate System	Marginal Groups	Luxury	Morality, Marriage and Family Life, Sexuality	Guardianship	Succession
24	41	7	13	8	3	5

Matters of Religion

Even though the number of matters of religion doubled in comparison to the first research period (n=12), it also stayed relatively low during the second research period. Now, 24 ordinances dealt with religion. A recurrent theme in these ordinances was religious orthodoxy and the practice of other religions. For instance, the so-called *Örebro stadga* from 1617 stated that

from this day onwards, anyone, regardless of his estate, who falls from the right Christian faith and Evangelic doctrine and converts to Papal doctrine, shall never have home or residence, the right to inherit, nor other rights

within the borders of Sweden; instead he will be considered without hereditary and other rights like a dead person, and held as outlaw everywhere in Sweden.¹⁵

For the rulers religious orthodoxy was not, of course, simply a matter of preventing subjects from falling from the true faith. It was also a matter of public order and peace, i.e., police, to a large extent. A common faith was a guarantee of national unity, peace and the well-being of the realm. As a royal *placat* from 1663 put it, “what prosperity the temporal government can gain thereof that peace and unity are maintained and uphold within religion.”¹⁶ Regulation of religion and religious practice thus had huge political relevance. However, it was impossible to demand absolute purity in religion so long as the Swedish realm wanted to keep up with economic and especially pre-industrial development. The country needed foreign experts who had, for instance, knowledge of mining and manufacturing. Furthermore, foreign policy and diplomacy required some level of religious tolerance.¹⁷ The 1655 Statute on the Proper Practice and Conservation of Our Christian Religion is telling in this respect. Foreign soldiers, merchants and tradesmen who professed a foreign religion were allowed to “show their devotion through reading and singing” provided that it took place in their quarters “behind locked doors”. The same applied to foreign embassies.¹⁸ These provisions were referred to and repeated in a statute from 1667.¹⁹ At the turn of the eighteenth century, a couple of ordinances were given in order to fight heresy and religious sects such as Chiliasm and Pietism.²⁰

During the seventeenth century, the legal status of the clergy was made clearer. In 1650, Queen Kristina (1632–1654) gave the bishops and the lower clergy their privileges. For instance, all priests, chaplains, schoolmasters and bell ringers in towns were to be provided with decent accommodation by the burgomaster and the town council. Priests were also exempt from municipal taxes as long as they resided in their houses and did not practice any urban means of livelihood, i.e. commerce or handicrafts.²¹ In exchange for economic security and administrative autonomy, the clergy

¹⁵ von Stiernman, *Religion*, 40; see also pp. 76–91, 114–115; Ingun Montgomery, *Sveriges kyrkohistoria 4: Enhetskyrkans tid* (Stockholm: Verbum, 2002), 70–71.

¹⁶ von Stiernman, *Religion*, 87.

¹⁷ Montgomery, *Sveriges kyrkohistoria*, 78–80, 140–145.

¹⁸ von Stiernman, *Religion*, 60–64 (quotations from p. 60).

¹⁹ *Ibid.*, 123–127.

²⁰ *Ibid.*, 161–169.

²¹ von Stiernman, *Commerce, Politie och Oeconomie*, 643–644.

was expected to enforce the proper religion in the realm.²² The privileges were confirmed in 1675 by Karl XI.²³

In addition to questions of religious orthodoxy, Swedish rulers were also concerned about everyday order in the churchyards and the church service as well as in compliance with the commandments of the Decalogue. Ordinances were given which forbade making a noise or causing a disturbance during the service.²⁴ In 1665, a lengthy ordinance was issued in order to fight blasphemy (*eder*) and breaking the Sabbath (*sabbatzbrott*).²⁵

However, the most important ordinance on religion in the seventeenth century was the 1686 Church Law and Order (*kyrkio-lag och ordning*). Even though the title bears the term 'law', it was issued under Karl XI's – and not the estates' – name; the assembly of the estates only confirmed it later. Therefore it has been counted as royal legislation.²⁶ As the title indicates, the enactment includes both ecclesiastical legal provisions (Church Law) as well as liturgical guidelines (Church Order). With regard to police, the most important chapters are chapter one "On True Christian Doctrine", chapter two "On Sermons and the Correctness of Service", chapter nine "On public Penance", chapter fourteen "On Religious Holidays", chapter nineteen "On the Priestly Office", and chapter twenty-eight "On Hospitals".²⁷

Population and the Estate System

As during the previous research period, matters related to population and the estate system mostly concerned town privileges and administration, immigration and emigration, internal migration, as well as taxation. A total of 41 matters were included in this sub-group.

In the course of the seventeenth century, some 28 new cities were founded in Sweden, among them Gothenburg in 1619. Even though the number of towns increased, many of the newly founded towns, as well as the old ones, remained quite small in size with only a few thousand

²² Montgomery, *Sveriges kyrkohistoria*, 108–109.

²³ Schmedeman, *Justitiæ och Executions-Åhreder*, 666–681.

²⁴ von Stiernman, *Commerce, Politie och Oeconomie... II*, 494–495; Schmedeman, *Justitiæ och Executions-Åhreder*, 1088–1089.

²⁵ Schmedeman, *Justitiæ och Executions-Åhreder*, 441–463; see also von Stiernman, *Commerce, Politie och Oeconomie... III*, 779, 854; *ibid.* IV, 991–1001; Schmedeman, *Justitiæ och Executions-Åhreder*, 301.

²⁶ Göran Inger, "Kyrkolagstiftningen under 1600-talet," in *Sveriges kyrkohistoria 4: Enhetskyrkans tid*, ed. Ingun Montgomery (Stockholm: Verbum, 2002), 209–213.

²⁷ Schmedeman, *Justitiæ och Executions-Åhreder*, 996–1069.

inhabitants. The only exception was Stockholm whose population reached nearly 45 000 by the end of the century.²⁸ The growing importance of towns did not, of course, go unnoticed by the rulers. Emerging and expanding cities needed new legislation concerning their administration. In 1619, a Statute on the Establishment and Administration of the Cities in the Realm was issued because the provisions of the medieval Town Law had partly “become useless and sank into oblivion”.²⁹ The statute included provisions on the necessary administrative organs and authorities in the cities. The burgomasters and the council of each town were responsible for maintaining “order and police” (*ordning och politie*) in the town.³⁰

As a consequence of the progression of Swedish towns, in the course of the seventeenth century the concept of police became increasingly often attached to a particular branch of town administration even though it did not lose its link to the wider notion of police as good order. The strengthening link between the concept of police and town administration manifests itself aptly in an important ordinance, namely the Ordinance on the Government of the Town of Stockholm (*förordning öfwer Stockholms stads styrelse*) of 1672. The tasks of the town's four burgomasters were redefined in the ordinance and each burgomaster had a collegial body to run. The burgomasters were the “*justitiae-borgmästare*” (responsible for administration of justice), the “*politie-borgmästare*”, the “*handels-borgmästare*” (commerce) and “*embetes-borgmästare*” (craftsmen's trades).³¹ This was the first time that the term *politie* appeared in the title of one of the town's four burgomasters. A previous statute from 1636 did define the tasks of each of the four burgomasters but police matters were divided between them.³² Now, the newly founded “Police Burgomaster” (*politie-borgmästare*), together with his “*collegio*”, was responsible for issuing ordinances concerning blasphemy, luxury, drunkenness and gambling, begging and poor relief, fire safety, church and schools, statutory guardianship, the town archives, and the night watch. However, these

²⁸ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 78–80. The material included 4 ordinances in which privileges were issued for cities. The cities were: Nyen (present-day Saint Petersburg), see von Stiernman, *Commerce, Politie och Oeconomie... I*, 1003–1004; Landskrona, see *III*, 135–154; Karlskrona, see *IV*, 278–284; and Helsingborg, see *IV*, 301–302.

²⁹ von Stiernman, *Commerce, Politie och Oeconomie... I*, 732.

³⁰ *Ibid.*, 733. The privileges for the City of Karlskrona from 1680 stated, likewise, that the city's two burgomasters and the city council were to build up a “good police” (*godh Politie*). See *ibid.* *IV*, 280.

³¹ *Ibid.* *III*, 1052.

³² Höberg, *Stockholms*, 171.

ordinances had to be approved by the governor, other burgomasters and the council.³³

In addition to town administration, both immigration and emigration were a recurrent object of regulation in ordinances. As already indicated above, control of immigration was linked, among other things, to religious orthodoxy. For instance, an ordinance of 1627 stated that all those who sought "*refugium*" in Sweden were welcomed especially if they were "not only subjects of Our friends but also adherents of Our own religion".³⁴ However, other motives existed as well. In 1638, a *patent* was issued in which it was forbidden for all foreign as well as Swedish inhabitants to travel from or to Sweden without a valid passport. The purpose of this prohibition was foremost to prevent foreign spies from entering the country and contagious diseases from spreading amongst the Swedish population.³⁵ The reasons for regulating emigration were, likewise, numerous. These are nicely crystallized in an ordinance from 1620. The ordinance prohibited peasants from moving abroad because it would decrease the Swedish population and make farms desolate, which, in turn, would reduce the crown's tax revenue. Finally, the enemy would grow stronger by receiving members of the able working population. Members of the nobility were allowed to travel abroad for the purpose of studying or fighting in a war as long as it did not mean residing in areas under the Polish Crown. Burghers, priests and sons of peasants could also travel abroad to study in "reformed Evangelic academies or schools, or to learn a useful trade or commerce".³⁶ One ordinance reminded the authorities of Stockholm that foreign merchants were only allowed to stay in the realm for six weeks.³⁷

A few ordinances dealt with internal migration and resettlement. In 1638, two ordinances were given in order to encourage people to move to the newly founded towns of Nyen (present-day Saint Petersburg) and Sandö.³⁸ People were also prohibited from moving from one region to another. In 1627, King Gustav II Adolf forbade the people, especially young men, of the Åland islands to move to either mainland Sweden or Finland because the number of seamen had fallen in the province.³⁹ In 1671, the

³³ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 1053–1054.

³⁴ Ibid. I, 950.

³⁵ Ibid. II, 112. See also ibid. VI, 488.

³⁶ Ibid. I, 758–759 (quotation from p. 759).

³⁷ Ibid., 564–565.

³⁸ Ibid. II, 173–175, 180–181.

³⁹ Ibid., 477–478; see also ibid. V, 461–462.

Lappish people were forbidden to move away from their home area in order to prevent Lapland from becoming desolate.⁴⁰

In 1638, Sweden acquired land on the East Coast of North America (present-day Delaware/New Jersey/Pennsylvania) and established a colony called *Nya Sverige* (New Sweden). The colony never grew big and it was taken over by the Dutch in 1665.⁴¹ One year prior to the Dutch conquest, in 1654, an ordinance concerning *Nya Sverige* was issued. The ordinance prescribed that those subjects who decided to move to the colony of New Sweden in North America were granted an allodial title for the land they purchased as well as exemption from customs duties.⁴²

Finally, this sub-group of police matters also included ordinances in which taxation was regulated. A question that occurred in ordinances was over who was obligated to pay taxes to towns, i.e., who fell under the "urban tax burden" (*borgelig tunga*).⁴³ At the turn of the eighteenth century, new extraordinary taxes were imposed on people due the expanding costs of war.⁴⁴

Marginal Groups

During the second research period, six ordinances included provisions on marginal groups. No change thereby occurred in comparison to the first research period. As stated above, vagrancy amounted to a serious problem in Continental Europe only from the turn of the eighteenth century onwards.⁴⁵

In 1636, Queen Kristina issued a *placat* on Finnish vagrants in Sweden. According to the ordinance, they had been hiding in the forests cutting down wood and hunting wild animals, thus destroying crown property and causing trouble for local peasants. The ordinance offered a general pardon for the Finns provided that they would return to Finland to their home region within a fixed time limit. Another option was to report oneself to the governor and become a legitimate tax-paying crofter. Those who failed to abide by this order were to be apprehended and punished. Moreover, those people in the countryside as well as burghers in the

⁴⁰ Ibid. III, 866–867; see also ibid. IV, 33–35; V, 527–529.

⁴¹ Carol E. Hoffecker et al., ed., *New Sweden in America* (Newark: University of Delaware Press, 1995).

⁴² von Stiernman, *Commerce, Politie och Oeconomie*... II, 768–770.

⁴³ See e.g. ibid. I, 777–780; II, 463–464, 531–532; IV, 6–12, 461–462; Schmedeman, *Justitiæ och Executions-Åhrender*, 223.

⁴⁴ von Stiernman, *Commerce, Politie och Oeconomie*... V, 775–780, 841–84; VI, 125–136.

⁴⁵ Jütte, *Poverty*, 148–150; Härter, *Policey*, 989, 1007.

cities who offered protection and accommodation to the Finnish vagrants were to receive a punishment.⁴⁶ In 1693, a royal order was given in which it was forbidden for farmhands (*drängar*), maids (*pigor*) and other “loose people” from Finland and Åland to travel to other Swedish provinces without a valid passport.⁴⁷

What was new, however, compared to the previous research period, was ordinances that dealt explicitly with such marginal group as gypsies, Tartars and Jews.⁴⁸ A realm-wide *placat* on gypsies from 1637 stated that a

large group of gypsies [*sikeiner*] and Tartars are wandering around the kingdom of Sweden from one region to another robbing the goods and possessions of our subjects through fraud, lies, thefts and witchcraft.⁴⁹

These groups were given a term of two and a half months within which they were to flee from the kingdom. Those men who failed to do so were to be punished by death without trial; women and children were to be banished.⁵⁰ However, the ordinance was never really implemented in its full strictness. Gypsies caught stealing, for instance, were brought to courts for trial. Allan Etzler has argued that it did not fit well into the law-abiding Swedish mindset to hang criminals without a trial.⁵¹ The *placat* was issued anew in 1662.⁵²

Jews also appeared in police ordinances as a separate group. In 1685, Karl XI ordered that all Jews were to be banished from Stockholm and the country within fourteen days. The order was justified by the wish to protect “Our pure [and] uncontaminated doctrine [from] Jews who were mockers of the Name and the Church of Christ”.⁵³

It has been argued that the word ‘gypsy’ (Germ. *Zigeuner*) was used in early modern German police ordinances as a generic term for all vagabonds and wandering groups and not as a term for describing an ethnically closed group. In German territories, the measures that were taken against these groups were similar to those already referred to in Swedish

⁴⁶ von Stiernman, *Commerce, Politie och Oeconomie* . . . II, 55–57.

⁴⁷ Ibid. V, 435–436.

⁴⁸ Swedish kings were already writing official letters to governors and local bailiffs during the sixteenth century ordering them to banish all Tatars from the realm. See Allan Etzler, *Zigenarna och deras avkomlingar i Sverige: Historia och språk* (Uppsala: Almqvist & Wiksells Boktryckeri, 1944), 44–60.

⁴⁹ von Stiernman, *Commerce, Politie och Oeconomie* . . . II, 104.

⁵⁰ Ibid., 104–106.

⁵¹ Etzler, *Zigenarna*, 69–70.

⁵² von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 69–70.

⁵³ Ibid. IV, 638.

ordinances: deportation orders, banishment, and capital punishment. Corporal punishment and branding were also used. From the latter half of the seventeenth century onwards, the control of *Zigeuner* intensified and hardened to a great extent. The reasons for this were various: the splitting up of German territorial states, economic development, changes in the system of poor relief, and changes in the structure of military forces.⁵⁴

It seems that in Swedish police ordinances the term 'gypsy' designated first and foremost foreign vagrants.⁵⁵ The Swedish material also indicates that domestic vagrants were treated less severely than foreign wandering groups. For instance, an ordinance from 1642 is quite telling in this respect. The sixteenth paragraph of the ordinance prescribes that all able-bodied "vagabonds and travelers" (*vaganter och landstrykare*) were to be apprehended and taken to the nearest castle and made to work there in irons until a clear betterment had taken place. According to the seventeenth paragraph, "gypsies or Tartars" (*ziguener eller tattare*) could, instead, be sentenced to death without trial by governors if they were convinced that the apprehended persons were guilty of thefts or other crimes. If this was not the case, gypsies and Tartars were simply to be banished.⁵⁶

So, in the Swedish ordinances vagabonds were not treated as a uniform group; a demarcation was made between domestic and foreign vagrants. Recent research on the treatment of vagabonds in German territories during the early modern period shows that this was also the case in Germany. For instance, Karl Härter has questioned the older view that control of vagrants was ineffective and that the people at local level often offered protection to vagrants. In fact, a clear distinction was drawn between criminal, foreign vagrants and harmless, domestic vagrants. The first-mentioned group received harsher punishments in comparison to the latter. Additionally, people on the local level were negatively disposed towards criminal vagrants and they often helped the authorities to catch unwanted social elements. Even though more sympathy was shown towards domestic vagrants, no 'principled solidarity' existed between them and the locals, either. The harshening measures of the authorities

⁵⁴ Leo Lucassen, "Zigeuner im frühneuzeitlichen Deutschland: neue Forschungsergebnisse, -probleme und -vorschläge," in *Policey und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 238–248.

⁵⁵ See also Etzler, *Zigenarna*, 44–45.

⁵⁶ von Stiernman, *Commerce, Politie och Oeconomie . . . II*, 332–333.

also made subjects take a stricter attitude towards vagrants and wandering beggars, thus making control more efficient.⁵⁷

The situation in seventeenth-century Sweden appears to correspond to the continental experience. Contemporary court records show that from the 1640s onwards the Swedish crown tightened its control over certain phenomena. For instance, cases concerning assaults against royal authorities such as customs officers became more frequent. Additionally, more and more cases concerning illegal felling of trees and illegal sale of alcohol started to appear in the courts. The crown was worried about loss of tax and customs revenue. However, the crown was not the only one to exploit the court system in order to achieve its goals. People on the local level also took advantage of the system when trying to weed out unwanted social phenomena. The court system was used against vagrants coming from elsewhere. The records show, among other things, that vagrants coming from outside the locality were punished more harshly than local idle people.⁵⁸

Luxury

The contents of royal ordinances that were issued in order to fight luxury and abundance in clothing and in festivities also stayed more or less the same during the second research period. A total of thirteen ordinances on these issues were included in the compilations.

In 1644, Queen Kristina gave a Statute on the Abolition of Various Disorders in the Meetings, Morning Gifts and Clothing of the Nobility. The ordinance included provisions on the permitted number of guests at betrothal parties, festivities and clothing at the wedding party, wedding and morning gifts, festivities at christenings and funerals. The motivations for the ordinance were the same as in ordinances of the previous century: to prevent subjects from financial ruin and God's anger.⁵⁹ In 1664 and 1668, altogether seven new ordinances were given; this time the regulation was more detailed, and also the clergy and burghers had their own ordinances and provisions on the subject.⁶⁰ Distinctions were also drawn within each estate. For instance, in respect to jewellery and clothing that

⁵⁷ Härter, *Policey*, 1003–1122 (quotation from p. 1078).

⁵⁸ Jan Sundin, *För Gud, Staten och Folket: Brott och Rättsskipning i Sverige 1600–1840* (Lund: Institutet för Rättshistorisk Forskning Grundat av Gustav och Carin Olin, 1992), 156–157, 161–162, 481, 492.

⁵⁹ von Stiernman, *Commerce, Politie och Oeconomie*... II, 388–395.

⁶⁰ Ibid. III, 228–231, 231–241, 258–272, 272–287, 716–719, 720–733, 756–766.

brides and bridegrooms were allowed to use at weddings, the population of towns was divided into four “*gradus*”. The first grade consisted of burgomasters, members of the city council, and magistrates; the second grade of “prominent burghers”; the third grade of “burghers of lesser sort”, and the fourth one of servants.⁶¹ These ordinances bear witness to a society of estates where each estate had their place. In this respect, luxury ordinances were thus a means to maintain and strengthen the estate society. The development in Sweden seems to have followed the Continental European trend. During the seventeenth century, regulation of luxurious items and excessive practices in German territories became more and more differentiated following the differentiation in *Rang und Stand*, i.e., the established social hierarchy.⁶²

Later in the century, in 1688, 1690 and 1699, three ordinances were issued to prohibit the import and use of “fashionable” cloths and ribbons with gold, silver and silk decorations.⁶³ Now, the prohibition of luxurious clothing had novel motivations behind it. For instance, the ordinance of 1688 stated that all fashionable cloths and ribbons produced in Sweden could be sold and used without restriction. Foreign fashionable cloths could instead only be used in furniture if such cloths could not be manufactured domestically. However, this required advance permission from the Commerce Collegium.⁶⁴ Finally, an ordinance from 1716 imposed levies for the use of clothes and other products “of lesser necessity” such as coffee, tea, chocolate and tobacco.⁶⁵ These products were thus not altogether forbidden but the crown wanted to collect money to cover the ever-increasing costs of warfare.

These later ordinances indicate that a gradual shift of focus took place in regard to the motives behind regulation of luxury. In regard to Germany, it has been argued that ‘territorial economic policy’ (*territorialen Wirtschaftspolitik*) was the latest motive behind bans on luxury although it did not entail the disappearance of other motives (religious, moral, and social). Firstly, considerations related to foreign exchange policy played a role in regulation. According to the principles of mercantilism, ‘the money must stay in the country’ (*das Geld soll im Lande bleiben*). Import of foreign

⁶¹ Ibid., 274–275.

⁶² Stolleis, *Pecunia Nervus Rerum*, 36–45.

⁶³ von Stienman, *Commerce, Politie och Oeconomie* . . . IV, 1012–1014; V, 136–137, 754–757. In 1681, one ordinance was also issued on the futility of funeral processions, see *ibid.* IV, 321.

⁶⁴ Ibid. IV, 1014. See also *ibid.* V, 757.

⁶⁵ Ibid. VI, 316–321.

luxury goods and articles ran against this policy. Secondly, protectionist views gained ground during the latter half of the seventeenth century. The import of luxury goods and articles – or any goods and articles, for that matter – was considered harmful for domestic production especially when domestic manufacturing started to progress. In fact, in regard to bans on the import of luxury goods and articles the case was no longer so much about prohibition of luxury *per se* but rather about economic protectionism.⁶⁶ This trend was also evident in the Swedish case.

Morality, Marriage and Family Life, Sexuality

During the second research period, eight ordinances incorporated provisions on matters of public morality, marriage, and sexuality. In December 1672, King Karl XI issued an Ordinance on Dressing of School Boys to the burgomasters and council of Stockholm. It had been brought to the king's attention that school boys had been dressed poorly, in particular for funeral processions (*lik-processer*). The king urged the burgomasters and the council to ensure that parents would dress their children properly. If the parents were too poor to do this, the children should be sent to school or into apprenticeship where they would get clothes.⁶⁷

Five ordinances dealt with marriage or adultery. In 1622 and 1665, two ordinances included provisions on illegal marriages of the knighthood and nobility. It was prescribed that maidens of noble birth were allowed to marry only with consent from their parents or legal guardians (*rätta målssmann*). This was to ensure that “the knighthood and nobility of the realm will be maintained pure and uncontaminated by all possible means”.⁶⁸ These ordinances attest to the success of the nobility in their attempts to protect their interests. Any marriage that a noblewoman entered into with a commoner was considered as a threat because it would result in the division or even the loss of tax-exempt land property. In the course of the seventeenth century, the Swedish nobility began to adopt European noble ideologies in order to distinguish themselves more clearly from the other estates. Additionally, Roman law and foreign legal literature were utilized as part of the arsenal.⁶⁹ In 1653, Queen Kristina

⁶⁶ Stolleis, *Pecunia Nervus Rerum*, 45–50.

⁶⁷ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 1049.

⁶⁸ Schmedeman, *Justitie och Executions-Åhreder*, 217–218, 426–429 (quotation from p. 427).

⁶⁹ See e.g. Mia Korpiola, “Marrying Off Sons and Daughters: Attitudes to the Consent of Parents and Guardians in Early Modern Sweden,” in *Less Favored – More Favored: Proceedings from a Conference on Gender in European Legal History, 12th–19th Centuries*,

issued a Penal Order (*straff-ordning*) in which she declared that in cases of single adultery the lower courts were no longer obliged to follow the strict letter of the law and pass death sentences. Instead, they should now judge in accordance with "*praxis forensic*", i.e., legal praxis, and with later royal ordinances. Both prescribed fines for single adultery.⁷⁰ The ordinance had a direct impact on the praxis in the lower courts and thus lessened the workload of the appellate courts.⁷¹ Two ordinances on marriage impediments were given in 1678 and 1680. These ordinances prohibited marriage between first cousins.⁷² One ordinance regulated betrothal of soldiers, i.e., "horsemen and kerns" (*ryttare och kneckter*). The ordinance required that all betrothals of horsemen and kerns should take place in the presence of a priest and a military officer. Otherwise, the betrothal was "invalid" (*ogiltige*).⁷³

The eighth and final ordinance that fell into this particular sub-group was on bestiality (*tidelags*). The ordinance stated that because the crime of bestiality had occurred frequently in many regions, especially involving boys who seldom or never went to church, local pastors and chaplains were to keep a close eye on the members of their parish. Furthermore, bailiffs were ordered to urge farm owners to send "womenfolk" (*qwinfolck*) to herd the cattle instead of boys.⁷⁴ In reality cases concerning bestiality appeared quite seldom on the appellate court level even though the crime was considered a serious crime of indecency.⁷⁵

September 2004./Benachteiligt – begünstigt: Tagungsbericht einer Konferenz über Geschlecht in der Europäischen Rechtsgeschichte, 12.–19. Jahrhundert, September 2004, ed. Grethe Jacobsen, Helle Vogt, Inger Dübeck, and Heide Wunder (Copenhagen: The Royal Library, 2005), accessed April 17, 2012. http://www.kb.dk/export/sites/kb_dk/da/publikationer/online/fund_og_forskning/download/A14_Korpiola.pdf; Mia Korpiola, "The Fall and Restoration of Elin Tönnesdotter: Land, Noble Property Strategies and the Law in Early Seventeenth-Century Sweden," in *The Trouble with Ribs: Women, Men and Gender in Early Modern Europe, Studies across Disciplines in the Humanities and Social Sciences* 2, ed. Anu Korhonen and K. P. L. Lowe (Helsinki: Helsinki Collegium for Advanced Studies, 2007), accessed April 17, 2012. http://www.helsinki.fi/collegium/e-series/volumes/volume_2/index.htm.

⁷⁰ Schmedeman, *Justitiæ och Executions-Ähreder*, 294–295.

⁷¹ Rudolf Thunander, *Hovrätt i funktion: Göta hovrätt och brottmålen 1635–1699* (Lund: Institutet för rättshistorisk forskning grundat av Gustav och Carin Olin, 1993), 103–104.

⁷² Schmedeman, *Justitiæ och Executions-Ähreder*, 702–703, 724.

⁷³ von Stiernman, *Religion*, 156.

⁷⁴ Schmedeman, *Justitiæ och Executions-Ähreder*, 1074.

⁷⁵ See Thunander, *Hovrätt i funktion*, 102–103, 107, 111, 115.

Guardianship

Three ordinances addressed the issue of guardianship. The Stockholm town privileges of 1636 included a provision on guardianship. The thirty-third paragraph of the privileges stated that burgomasters and the town council were responsible for making sure that “able guardians” (*goda Förmyndare*) were appointed to widows and orphans who fell under town jurisdiction straight after the death of their family members. In addition, no inheritance was allowed to be distributed without the knowledge of the burgomasters and the council and the presence of the appointed guardian.⁷⁶

In 1665, an important institutional reform was carried out when the Inheritance and Guardianship Chamber (*arv- och förmyndar-kammare*) was established. The explicit motive for establishing such an authority was that many widows remarried without first distributing the inheritance of the deceased parent to the children. The question was not simply of the inheritance rights of individuals. As the preamble of the ordinance stated, poor management of the property of minors often resulted in long and difficult trials. Minors might lose their entire property, which was not a good thing judged from the point of view of social order. It was therefore in the interest of the rulers and the authorities that the rights of minors were protected. In other words, it was a question of police. The ordinance included provision on the composition of the Chamber and its tasks, first and foremost, administration of the estates of deceased persons.⁷⁷ Two years later, in 1669, another ordinance was issued in which the qualifications and tasks of individual appointed guardians were defined.⁷⁸

Succession

A total of five ordinances contained provisions on succession. Two ordinances from 1614 and 1617 included provisions on cases where the deceased was a foreigner. Both ordinances stated that if a foreigner died without “domestic heirs” (*inrijkes arfwinge*), the foreign heirs had a day and a year to appear and collect their inheritance. However, one third of the value of the estate was to be divided in half between the crown and the town.⁷⁹ The town privileges of Stockholm from 1636 included a provision which prescribed that if a person died without legal heirs and without having

⁷⁶ Schmedeman, *Justitiæ och Executions-Ährennder*, 227–229.

⁷⁷ *Ibid.*, 472–478.

⁷⁸ *Ibid.*, 571–583.

⁷⁹ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 600, 703.

drawn a testament, their property was to be divided in half between the crown and the city.⁸⁰ The town privileges of Landscrona from 1663 included the same provision. In addition, the privileges also urged the burgomasters and the council to protect the interest of poor widows and orphans. A legal guardian was to be appointed for them whose task was to make an inventory of the property, convert it into money and see that the sum would bear a 6 % yearly profit.⁸¹

In 1686, an important statute on testaments (*testamentsstadga*) was issued by Karl XI. The reason for giving the statute was uncertainty concerning the “right and proper meaning of the law” (*lagsens rätta och egenteliga förstånd*) in regard to testaments.⁸² According to the statute, a heterogeneous praxis had existed both in lower as well as in higher courts. This had to do with the Reformation. King Gustav Vasa was not in principle against leaving property to the church through testaments but he had objected to the way in which the clergy persuaded poor people to leave their property by will, or at least part of it, to the church. During the sixteenth century, testaments *ad pias causas* practically disappeared in the countryside and uncertainty prevailed over the official attitude to testaments.⁸³

The 1686 statute chiefly confirmed the old medieval legal provisions on testaments both in the countryside and in towns. In the countryside, a person could leave by will all “self-acquired landed property” (*aflingejord*) as well all movable property. Instead, if a person had no *aflingejord*, he was allowed to leave by will for *pious usus* one tenth of “inherited landed property” (*arfwejord, oðalfjord*). In towns the proportion of property which one could give away by testament depended on how close relatives the testator left. The statute also included provisions on competence to draw testaments, the form and contents of testaments, the execution of testaments, and the like.⁸⁴

However, it would be misleading to simply state that the 1686 statute only confirmed the medieval law on testaments. Many of the provisions of the statute were actually based on appellate court praxis from preceding decades. During the latter half of the seventeenth century, the number

⁸⁰ Schmedeman, *Justitiæ och Executions-Ährennder*, 228.

⁸¹ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 152–153.

⁸² Ibid. IV, 667.

⁸³ On the 1686 Statute on Testaments, see Åke Holmbäck, *Om 1686 års testamentsstadga: Föreläsningar vid Uppsala Universitet* (Stockholm: 1916).

⁸⁴ von Stiernman, *Commerce, Politie och Oeconomie* . . . IV, 668–672.

of testamentary disputes increased considerably at the appellate court level. Both the norms of medieval customary law and Roman law were often disregarded in the praxis. Appellate courts openly used arguments derived from natural law thinking when resolving disputes. The increase in the number of testaments and argumentation based on natural law (e.g. freedom of contract) bear witness to a gradual strengthening of a more individualistic conception of man.⁸⁵

Public Safety and Order

Matters of public safety and order formed 15 % of all police matters during the second period. The total number of these matters was 153. The second research period did not bring any significant change in this area since the percentage of the main group was thirteen in regard to the first research period. This category is further divided into four sub-categories as indicated in Table 7.

Table 7: Matters of Public Safety and Order 1612–1718 (n=153)

2.1 Amusements and Frivolity	2.2 Public Safety and Criminality	2.3 Censorship and Printing	2.4 Administration and Judiciary
5	57	9	82

Amusements and Frivolity

As during the second research period, only five ordinances included provisions on amusements and frivolity. These provisions were but single paragraphs in more extensive ordinances. For instance, Article 24 of the Court Articles (*hoff-articlar*) of Karl X Gustav of 1655 stated that all “court servants” (*hoff-tienare*) should keep to sobriety. He who made himself guilty of a drunken and godless life would be expelled from the court.⁸⁶ A similar kind of provision was in the Court Articles of King Karl XI of 1687. In addition, the latter also included an article against card games if they “are used to defraud one’s fellow-men and to make God angry rather than to a useful and permitted amusement of one-self”.⁸⁷ The 1667 Maritime Law

⁸⁵ Elsa Trolle Önnerfors, *Justitia et Prudentia: Rättsbildning genom rättstillämpning – Svea hovrätt och testamentsmålen 1640–1690* (Lund: Juridiska fakulteten, 2010).

⁸⁶ Schmedeman, *Justitiæ och Executions-Åhrender*, 305.

⁸⁷ Ibid., 1173–1174 (quotation from 1174).

(*sjö-lag*) forbade gambling on board ship.⁸⁸ Port Regulations (*hambne-rätt*) of 1669 stated that whoever wanders during the evening on the rocks of a port drunk, shouting and swearing, or throwing things at people shall be punished with a six-mark fine.⁸⁹ Finally, the 1671 Manorial Court Order (*gårdz-rätt eller hus-disciplin*) issued by Karl XI to the nobility and their manors stated that whoever indulged in drunkenness or gambling while a church service was under way was to receive a punishment of imprisonment for two days with bread and water.⁹⁰

Public Safety and Criminality

Unlawful demands for transportation (*skiutsningar, skiutsfärder*) and/or hospitality (*giästning*) was again one of the dominant themes in police ordinances concerning public safety and criminality during the seventeenth century. Eight ordinances regulated this matter.⁹¹ These ordinances merely reminded king's officials, nobles and their servants, as well as burghers that no one, regardless of his position or estate, was allowed to demand horses, provisions or accommodation from the common people without valid permission. However, an important reform was carried out in 1649 when the whole institution was abolished. From then on, no one was allowed to demand free transportation or hospitality. Instead, everyone, including royal officials, was to pay for horses and accommodation. Only troops going to, or coming back from war were exempt from payment. In order to finance the costs of the new system, the crown imposed a new yearly levy of three silver thalers for each "farm liable to taxation" (*mantal*).⁹² This reform did not put an end to unlawful demands since ordinances on the subject also continued to appear after the reform – albeit to a lesser degree in comparison to the previous century.⁹³

Although troops were exempt from paying for accommodation, this did not prevent military personnel from abusing burghers or peasants. Even before the reform, a couple of ordinances which explicitly dealt with unlawful demands made by the military had been given. For instance, an ordinance from 1630 stated that because foreign officers and troops were not aware of Swedish statutes, the king saw fit to issue and publish yet

⁸⁸ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 528.

⁸⁹ *Ibid.*, 781.

⁹⁰ *Ibid.*, 853.

⁹¹ *Ibid. I*, 587–591, 645–654; *ibid. II*, 21–24.

⁹² *Ibid. II*, 597.

⁹³ *Ibid. II*, 884–885; *III*, 126–128; *IV*, 577–578, 681–683.

another one.⁹⁴ Both before and after the reform, several ordinances on the accommodation of military troops were issued. A Patent on Soldiers' Accommodation and Maintenance in Towns from 1638 set limits to the responsibilities of the cities to accommodate and provide for troops. The responsibilities were proportioned according to the size of each city.⁹⁵ Later ordinances included more detailed provisions on the contents of the accommodation and maintenance obligation both in the cities and in the countryside.⁹⁶

Wartime also caused other types of problem between the military and civil population that needed regulation. Recruitment of soldiers was regulated in a *patent* from 1678. The ordinance stated that the use of violence was absolutely forbidden in all recruiting.⁹⁷ In 1684, a *placat* was issued in which Karl XI reminded military officers that as long as soldiers stayed in their own homes and not in garrisons or on the march, they were under the jurisdiction of ordinary courts. Therefore they were also obliged to follow the orders of civil authorities such as governors.⁹⁸ In 1693, another *placat* on all Kinds of Affray and Violence during Guard or Parades in [the Town of] Riga was given. This ordinance stated that affrays were "against the law and public security" (*emot lag och den allmänne säkerheten*).⁹⁹ All those engaged in affrays, whether soldiers or civilians, were to be taken immediately to court and punished. Three years later, in 1696, an ordinance forbade civilians to acquire clothing, rifles or other equipment from soldiers through sale, exchange, gambling or pawning.¹⁰⁰ For soldiers these deeds were already punishable according to the War Articles of 1683.¹⁰¹

Most probably due to wartime, carrying arms in public places increased during the seventeenth century. To this attest several ordinances that were given on carrying arms and shooting in towns. For instance, an ordinance from 1659 prohibited all shouting and shooting in the streets of Stockholm

⁹⁴ Ibid. I, 986–987. See also ibid. II, 99–100; Schmedeman, *Justitiæ och Executions-Ährender*, 1368–1369.

⁹⁵ von Stiernman, *Commerce, Politie och Oeconomie*... II, 113–114.

⁹⁶ Ibid. IV, 143–144, 167–170; V, 121–134; VI, 147–148.

⁹⁷ Schmedeman, *Justitiæ och Executions-Ährender*, 698–700.

⁹⁸ Ibid., 871–872.

⁹⁹ von Stiernman, *Commerce, Politie och Oeconomie*... V, 410.

¹⁰⁰ Schmedeman, *Justitiæ och Executions-Ährender*, 1449–1450.

¹⁰¹ Ibid., 820. As stated on p. 15 of this book, ordinances on the military are not counted as police matters and are therefore left out.

during the night time.¹⁰² A couple of ordinances forbade shooting at weddings, christenings, fairs and other meetings.¹⁰³ The Manorial Court Order for the Knighthood and Nobility of 1671 forbade handling arms in the presence of the lord of the manor or his family.¹⁰⁴ Three ordinances were given against duels because they were likely to make “God angry and to harm the well-being of one or both parties for good”.¹⁰⁵

An interesting theme that appeared in ordinances during the seventeenth century was protection of royal officials. One group particularly seems to have been in need of royal protection, namely customs officers. The material included six ordinances on this issue. The first, a *patent* from 1623, stated that because royal customs officers had been subjected to both verbal and physical assault, King Gustav II Adolf had decided to take the officers and their servants “under Our Royal Protection, Peace and Defence”.¹⁰⁶ An Instruction on Archers and the Night Watch in Stockholm of 1667 declared, likewise, that all night watchmen were taken under royal protection. The ordinance also contained provisions on the organization of watchmen as well as their tasks.¹⁰⁷

Finally, various sorts of crime were also a regular object of royal police ordinances. As already mentioned above, police ordinances were also issued in the field of criminal law in order to expand, supplement and refine the provisions of early modern criminal codes.¹⁰⁸ A crime that received much attention in police ordinances of the seventeenth century was treason. First of all, the Court Articles and Manorial Court Articles included provisions on treasonous action. For instances, the Court Articles of Karl X Gustav included several provisions on various forms of treason (*förräderij*). The essential elements of treason were realized if someone set himself against the king, his spouse or heirs “with poison, conspiracy and clandestine practices, or with manifest words and deeds, advice

¹⁰² von Stiernman, *Commerce, Politie och Oeconomie... II*, 897–898. See also *ibid.* *III*, 5–6, 57–58, 191–197; *IV*, 199–200.

¹⁰³ *Ibid.* *IV*, 620–621, 635–636.

¹⁰⁴ *Ibid.* *III*, 857.

¹⁰⁵ Schmedeman, *Justitie och Executions-Ährender*, 325–328, 764–770; von Stiernman, *Commerce, Politie och Oeconomie... V*, 541–542.

¹⁰⁶ von Stiernman, *Commerce, Politie och Oeconomie... I*, 901. “*uthi Wårt Konungzlige Hägn, Frijdh och Förswar*”. See also *ibid.* *II*, 870–872; *IV*, 179–182, 339–341, 342–344; *V*, 542–544.

¹⁰⁷ *Ibid.* *III*, 592–600.

¹⁰⁸ See above p. 50.

and action”.¹⁰⁹ Furthermore, individual ordinances were given on other kinds of treasonous action: it was forbidden to flee and help the enemy,¹¹⁰ to have anything to do with the King of Poland,¹¹¹ or to reveal secret documents to foreigners or to receive a pension from foreign rulers.¹¹² It was also forbidden to take, lose, sell, buy or hide royal documents.¹¹³

Crime of the more common type was also regulated. The Penal Ordinance of 1653 prescribed that a death penalty for larceny could only be passed if the worth of the stolen goods exceeded 60 silver thalers and it was a case of third time recidivism, or if the larceny took place inside a church.¹¹⁴ Prior to the ordinance, the lower courts were obliged to pass death sentences if the worth of the stolen goods exceeded half a mark in the countryside and, respectively, one mark in the cities. The ordinance resulted in a decrease in death penalties both at the appellate and at the lower court level.¹¹⁵ Infanticide was regulated in four ordinances with more or less the same contents. It was prescribed that a claim that the foetus had died prematurely did not save the accused from death if the childbirth had taken place secretly and the foetus was discovered full-grown.¹¹⁶ However, the strict letter of the law was not always followed since many women received a royal pardon.¹¹⁷ Furthermore, the first chapter of the 1667 Maritime Law included provisions on order on ships. For instance, slander was punishable by three marks and an assault by six marks for each blow.¹¹⁸ Lastly, a *placat* from 1697 forbade robbing of shipwrecks since “natural law” (*den naturlige lagen*) ordains one to help others in distress.¹¹⁹

Censorship and Printing

In contrast to the first research period, the empirical material now incorporates ordinances that regulated censorship or printing. Between 1612 and 1718, a total of nine ordinances included provisions on these issues.

¹⁰⁹ Schmedeman, *Justitiae och Executions-Åhreender*, 302. See also 1153–1160.

¹¹⁰ *Ibid.*, 132, 687–689.

¹¹¹ *Ibid.*, 167–172.

¹¹² *Ibid.*, 1477–1478. On different categories of treason in 17th century Sweden, see Korpiola, “Swedish,” 241–242.

¹¹³ von Stiernman, *Commerce, Politie och Oeconomie... V*, 510–511.

¹¹⁴ Schmedeman, *Justitiae och Executions-Åhreender*, 295.

¹¹⁵ Thunander, *Hovrätt i funktion*, 116–123.

¹¹⁶ Schmedeman, *Justitiae och Executions-Åhreender*, 299–300. See also 584–585, 727–728, 877–879.

¹¹⁷ Thunander, *Hovrätt i funktion*, 138–140.

¹¹⁸ von Stiernman, *Commerce, Politie och Oeconomie... III*, 519–534.

¹¹⁹ *Ibid.* V, 678–681 (quotation from p. 678).

In 1662, the Regency of Karl XI issued a letter to the Swedish clergy. The impulse for issuing this ordinance had been the books and writings of the Bishop of Strängnäs. In these writings the then bishop, Johannes Matthiae Gothus (1592–1670), had presented strong views in favour of the coalescence of European Churches. However, these ecumenical views were not tolerated and Gothus was forced to resign in 1664. The ordinance included a provision according to which no print shop in the country was allowed to print writings “that in anyway stir public peace and unity, either in spiritual or in temporal issues”.¹²⁰ This quotation aptly shows that censorship and printing were indeed important police matters during the early modern period. In the following year, in 1663, two ordinances of a similar kind were given. The first concerned in particular the writings of the Bishop of Åbo (Turku) that were regarded as detrimental to societal peace and were therefore forbidden.¹²¹ The other was a more general ordinance which prescribed that all religious books containing suspicious material were to be delivered beforehand to the Chancellery in order to see whether they could be printed or not. In other cases, each institution in question, be it a consistory, a university, or a college, was in charge of the censorship of books written in the institution.¹²²

In addition to religious books and writings, temporal writings, too, fell under the control of royal censorship. In 1665, an ordinance forbade the distribution and printing of all kinds of foreign “satires and lampoons” (*pasquiller och smädeskriffter*) in which foreign princes or states were mocked and ridiculed. Those guilty were to receive due punishment and the writings were to be publicly burned.¹²³ Two years later, the import of all foreign books that contained mockery of foreign rulers and states was forbidden.¹²⁴ In 1687, Karl XI issued a ban on printing resolutions of the assembly of the representatives of the estates, royal statutes, resolutions, and the like without specific authorization and permission from the king. For example, some royal letters might include material that was not meant for the public, at least not without review by the king in advance.¹²⁵

¹²⁰ von Stiernman, *Religion*, 84. “som i någon måtto rörer then allmenne Frijdhen och enigheeten, antingen uthi Andelige, eller Werzlige saker.”

¹²¹ Ibid., 87–91.

¹²² Ibid., 108. See also von Stiernman, *Commerce, Politie och Oeconomie*... IV, 600–602; V, 273–274.

¹²³ Ibid. III, 322–324.

¹²⁴ Ibid., 589–590.

¹²⁵ Ibid. IV, 853–855.

Administration and Judiciary

Matters concerning administration and the judiciary formed the biggest sub-group of the main group two in the second research period; a total of eighty-two ordinances are counted among this sub-group. These ordinances dealt with a large variety of issues and therefore they cannot all be covered here in detail. Only the most significant themes will be discussed below.

The most important ordinances on the judiciary that saw the light of day during the second research period were ordinances in which the first royal Courts of Appeal were established. The first, *Swea hoffrätt*, was founded in 1614 in Stockholm. The reason for establishing the court was the

endless complaints which We daily receive from our loyal subjects, the common inhabitants of the realm, high and low, that Law [*lag och rätt*] is not properly administered, i.e., in a way that justice [*rättwijsan*] and a well-ordered Government requires.¹²⁶

This quotation shows aptly how the court system, too, was not simply a matter concerning the administration of justice but also a matter with wider societal significance, i.e. a matter of good police. The idea was that the Court of Appeal in Stockholm would hold the “highest judicial power” (*öfwerste doom*) in the country.¹²⁷ In the following year, the court received regulations on the process to be followed in its sessions.¹²⁸

However, it soon became clear that the *Swea Hoffrätt* was not able single-handedly to take care of all the complaints that were sent there from all over the realm. In 1623, another Court of Appeal was established in Åbo (Turku) to attend to complaints from the eastern province of the realm, i.e., Finland. Gustav II Adolf proclaimed that many important cases were left without the attention they deserved because of long journeys and high costs.¹²⁹ For the same reasons yet another Court of Appeal, i.e., the *Giöta Hoff-Rätt*, was founded in Jönköping in 1634.¹³⁰

Creation of the system of Courts of Appeal did not put an end to the older custom of making petitions directly to the king. In fact, Paragraph 35 of the 1615 Process Ordinance (*rättegångs-process*) stated that those who were not satisfied with “royal judgements” (*konungzlige doom*), i.e., deci-

¹²⁶ Schmedeman, *Justitiæ och Executions-Åhreder*, 133–143 (quotation from p. 133).

¹²⁷ Ibid., 137.

¹²⁸ Ibid., 143–163.

¹²⁹ Schmedeman, *Justitiæ och Executions-Åhreder*, 218–219.

¹³⁰ Ibid., 220–221. On the administration of justice in criminal cases in *Göta hofrätt* during the 17th century, see Thunander, *Hofrätt i funktion*.

sions made by the Court of Appeal, could still lodge an appeal by sending a petition to the king and thus seek "*beneficium revisionis*".¹³¹ Later, a handful of ordinances that concerned this instance of final appeal were issued. They ordained, among other things, that no one was to seek revision without placing a recognizance and swearing an oath that he was not seeking revision for "angry and vengeful intentions".¹³² A couple of ordinances also prescribed that it was not allowed to make a petition to the king unless the case had first been brought to a court or a governor. Only if a petition concerned Courts of Appeal or governors themselves was a direct petition acceptable.¹³³ Furthermore, it was ordained in 1714 that if the appellate court had condemned someone to death, the judgment was still to be submitted to royal revision.¹³⁴

During the second research period, other new courts were also established. In 1672, King Karl XI issued an ordinance according to which Excise Courts (*accis-rätterne*) were to be established in every town throughout the realm. The task of these courts was to try all cases that concerned both customs and excises.¹³⁵ In 1696, Castle Courts (*slotss-rätter*) were to be established in every royal castle; the Castle of Stockholm had had one already since 1681. These courts were to try all cases concerning the "excesses of the castle's servants", be they courtiers or military personnel.¹³⁶

Several ordinances included provisions on jurisdictional questions. The Stockholm Town Privileges of 1636 prescribed that the burgomasters and the council could impose fines for action "against the law, city privileges or good customs" (*emot lagen och stadzens wälfångne privilegia eller goda seder*). If no clear law existed, they could give judgment "following their conscience" (*efter samwete*). It was forbidden to appeal against rulings of the town court to the Court of Appeal if the monetary interest of the case did not exceed three hundred thalers.¹³⁷ In 1686, a royal letter was issued saying that all manslaughter cases should no longer be tried in Mining

¹³¹ Schmedeman, *Justitiæ och Executions-Ähren*, 161. On the relationship between the Svea Court of Appeal and the *beneficium revisionis*, see Sture Petré, Stig Jägerskiöld, and Tord O:son Nordberg, *Svea hovrätt: Studier till 350-årsminnet* (Stockholm: P. A. Norstedt & Söners Förlag, 1964), 3–45.

¹³² Schmedeman, *Justitiæ och Executions-Ähren*, 321–324, 731–734, 772–779, 1211–1212.

¹³³ *Ibid.*, 715–717, 754–756.

¹³⁴ *Bergwerken och Bruken*, 589–593.

¹³⁵ von Stiernman, *Commerce, Politie och Oeconomie... III*, 917–923. See also *ibid.* IV, 443–449. Until that, cases concerning customs duties had been tried in local courts. See Sundin, *För Gud, Staten och Folket*, 154.

¹³⁶ Schmedeman, *Justitiæ och Executions-Ähren*, 1459–1460.

¹³⁷ *Ibid.*, 222.

Courts (*grufweting*) but instead in ordinary lower courts.¹³⁸ In 1689, an ordinance was given on jurisdiction in cases of unlawful smithery in the forests of Kopparberg; these cases were to be tried in the Mining Courts.¹³⁹ At the end of the century, in 1699, a resolution was given on the jurisdictional scope of the Town Administrative Court (*magistrat*) of Stockholm. The resolution prescribed that all “police matters” (*politie-mål*) belonged to the court’s jurisdiction, i.e., matters concerning enforcing ordinances, disputes between ship owners and skippers, manufacturing and trades, commerce, weights and measures, real estate, public sanitation, fire safety, and crimes against the Sabbath.¹⁴⁰

In 1718, two new administrative authorities were established, namely that of an *ordningsman* (equals Sheriff) and that of a *högsta ordningman* (High Sheriff). The *ordningsmän* were responsible for all tasks that concerned keeping “good order” (*god ordning*) in the countryside whereas towns also fell under the jurisdiction of the *högsta ordningman*. These officials were chiefly in charge of arresting criminals and imposing fines for petty crimes.¹⁴¹

The rise of the importance of mining and trade also had an influence on ordinances concerning administration. In 1630, a new administrative central organ of the General Mining Authority (*general bergsamt*) was established. The main duty of the organ was to supervise “all current and future mines of the crown”. It consisted of one governor and a sufficient amount of assessors.¹⁴² In 1649, the authority was renamed the Mining Collegium (*bergs-collegio*).¹⁴³ It was also invested with jurisdictional powers since all decisions of the Mining Courts in cases where the claim or interest exceeded 50 marks could be appealed to the *bergs-collegio*.¹⁴⁴ Furthermore, in 1637, Queen Kristina gave an ordinance through which another new administrative central organ, the Commerce Collegium (*collegium af commercierne*) was established. The Collegium was responsible for “making an inventory of all good advice and plans that would benefit particularly the course, prosperity and progress of both domestic and foreign commerce”.¹⁴⁵ Fourteen years later, the Collegium received

¹³⁸ *Bergwerken och Bruken*, 347.

¹³⁹ *Ibid.*, 378–380.

¹⁴⁰ von Stiernman, *Commerce, Politie och Oeconomie* . . . V, 759–763.

¹⁴¹ *Ibid.* VI, 547–549.

¹⁴² *Bergwerken och Bruken*, 72–77, 79–85 (quotation from p. 72).

¹⁴³ *Ibid.*, 133–136.

¹⁴⁴ *Ibid.*, 340–341. See also pp. 371, 391–393, 559–562.

¹⁴⁵ von Stiernman, *Commerce, Politie och Oeconomie* . . . II, 110.

extensive instructions on its personnel and duties.¹⁴⁶ In 1662, a privilege was given to establish a *General Factorie Contoirs* whose task was to oversee and promote Sweden's commercial interests in the home country and overseas.¹⁴⁷ Furthermore, in 1689 an ordinance was issued which regulated the procedure to be followed in legal proceedings in the Commerce Collegium as well as in the Chamber Collegium and Excise Courts.¹⁴⁸ The establishment of these new central authorities bears witness to the increasing importance of commerce and mining that took place during the seventeenth century.

Finally, the police ordinances of this particular sub-group also included provisions on the proper forum in cases concerning trading companies,¹⁴⁹ the proper forum and court procedure in maritime cases,¹⁵⁰ enforcement of court decisions,¹⁵¹ execution of punishments,¹⁵² general pardons,¹⁵³ protection of hangmen,¹⁵⁴ neglect to appear in the Courts of Appeal,¹⁵⁵ fees for copies of trial documents,¹⁵⁶ handling documents in royal revision,¹⁵⁷ extraordinary court sessions and inspections,¹⁵⁸ summoning,¹⁵⁹ use of new evidence,¹⁶⁰ court procedure (summoning and appeals),¹⁶¹ swearing oaths,¹⁶² conduct of procurators,¹⁶³ duties of customs officers and neglect of duty,¹⁶⁴ legal treatment of those burghers who had allegedly been cheating in customs clearance,¹⁶⁵ division of property

¹⁴⁶ Ibid., 669–678.

¹⁴⁷ Ibid. III, 94–103, 124–126.

¹⁴⁸ Schmedeman, *Justitiæ och Executions-Åhrender*, 1250–1263.

¹⁴⁹ See e.g. von Stiernman, *Commerce, Politie och Oeconomie... I*, 664, 723, 765.

¹⁵⁰ Ibid. III, 576–584.

¹⁵¹ Schmedeman, *Justitiæ och Executions-Åhrender*, 246, 589–602, 747–748, 762–763, 868–871, 980–981, 1071–1072, 1117–1118, 1380–1381, 1440; von Stiernman, *Commerce, Politie och Oeconomie... IV*, 341–342.

¹⁵² Ibid. III, 799–800; VI, 462.

¹⁵³ Ibid. VI, 276; *Bergwerken och Bruken*, 436–437.

¹⁵⁴ Schmedeman, *Justitiæ och Executions-Åhrender*, 1532–1533, 1573–1574.

¹⁵⁵ Ibid., 234–235.

¹⁵⁶ Ibid., 316–318.

¹⁵⁷ Ibid., 711.

¹⁵⁸ Ibid., 1083–1084.

¹⁵⁹ Ibid., 1320–1321.

¹⁶⁰ Ibid., 1323–1324.

¹⁶¹ Ibid., 1414–1425.

¹⁶² Ibid., 1429.

¹⁶³ Ibid., 1478.

¹⁶⁴ von Stiernman, *Commerce, Politie och Oeconomie... I*, 615; *II*, 226; *III*, 861–863; *IV*, 179–182; *V*, 239–241; Schmedeman, *Justitiæ och Executions-Åhrender*, 1442–1446.

¹⁶⁵ von Stiernman, *Commerce, Politie och Oeconomie... V*, 685–687.

confiscated by customs officers,¹⁶⁶ the duty to report all shipwrecks to customs officers,¹⁶⁷ administration of town incomes in customs bureaus,¹⁶⁸ and duties of the authorities in charge of supervision of coins and coining.¹⁶⁹

Poor Relief, Public Health, Education and Schooling, Culture

Matters of poor relief, public health, education and schooling, and culture formed 4 % of all police matters regulated during the period between 1612 and 1718. The total number of these matters was 46. This category is further divided into three sub-categories as indicated in Table 8.

Table 8: Matters of Poor Relief, Public Health, Education and Schooling, and Culture 1612–1718 (n=46)

3.1 Public Health	3.2 Poor Relief	3.3 Education and Schooling, and Culture
26	13	7

Public Health

In comparison to the first research period (n=2), a considerable increase in the number of ordinances concerning public health took place. Now, not only pestilences were regulated but also various professions related to public health received their regulations.

All kinds of pestilences continued, of course, to be a serious menace to Swedish society during the seventeenth century as well. In 1619, Gustav II Adolf issued a *patent* in which he ordered a hospital to be erected on the Island of Själö in Finland for those who suffered from the “contagious trouble and disease of leprosy” (*spetelskan*). Those who were admitted to the hospital were to pay 20 thalers for their upkeep. If the patients themselves were without means, the town or parish of residence was obliged to pay the required sum.¹⁷⁰ It was a common practice in medieval Europe to build houses for lepers in isolated areas outside the town walls. However, in the course of the early modern period the functional

¹⁶⁶ Ibid., 772–773.

¹⁶⁷ von Stiernman, *Commerce, Politie och Oeconomie* . . . IV, 241.

¹⁶⁸ Ibid., 240.

¹⁶⁹ Ibid. III, 248–249.

¹⁷⁰ Ibid. I, 706–708.

differentiation between leper houses and general hospitals started to lose its importance especially in smaller towns.¹⁷¹

However, plague formed a bigger threat than leprosy in early modern societies. A handful of ordinances on prevention of plague were indeed issued in Sweden, too, during the seventeenth century. In 1638, a *placat* on pestilence in Stockholm was issued. The ordinance contained instructions on how to deal with those who had been infected. They were to stay indoors as long as the *magistrat* of the town had ordered and all contagious houses were to be marked either with a cross above the gate or with a sheet hanging from the wall.¹⁷² Two years later, the burghers of Stockholm were forbidden to travel to fairs outside the city in order to prevent the disease from spreading to other regions.¹⁷³ It was ordered in 1664 that no one from Holland or other contagious places was allowed to enter the Swedish realm.¹⁷⁴ At the turn of the 1710s, several ordinances with similar provisions were given in order to control the last extensive epidemic of plague that troubled the country.¹⁷⁵

A profession that came under increasing administrative regulation during the seventeenth century was barber-surgeons. A royal ordinance of 1669 confirmed earlier resolutions given by the Medical Collegium (*collegii medicorum*) and the War Collegium (*krigs-collegii*) according to which no one was allowed to practice the profession of "barber-surgeon" (*barberare, chirurgo*) without passing an exam and giving a demonstration of his skills.¹⁷⁶ In 1675, it was specified that "bath keepers" (*badare*) of Stockholm could not operate as barber-surgeons but instead they were allowed to bleed, cut hair, shave and treat minor wounds.¹⁷⁷ The 1667 Maritime Law had already had a provision on barber's duties on board ship.¹⁷⁸ In 1682, Karl XI mandated the Governor of Stockholm (*öfverståthållare*) to

¹⁷¹ Martin Scheutz and Alfred Stefan Weiß, "Spitäler im bayerischen und österreichischen Raum in der Frühen Neuzeit (bis 1800)," in *Europäisches Spitalwesen: Institutionelle Fürsorge in Mittelalter und Früher Neuzeit/Hospitals and Institutional Care in Medieval and Early Modern Europe*, ed. Martin Scheutz et al. (Wien – München: R. Oldenbourg Verlag, 2008), 191.

¹⁷² von Stiernman, *Commerce, Politie och Oeconomie... II*, 182–183.

¹⁷³ *Ibid.*, 236–237.

¹⁷⁴ *Ibid. III*, 257–258.

¹⁷⁵ *Ibid. VI*, 2–3, 23–27, 28–35, 47, 73–76. For a regional study on transmission of the plague in the southern province of Skåne during the years 1710–1713, see Bodil P. E. Persson, *Pestens gåta: Farsoter i det tidiga 1700-talets Skåne* (Lund: Historiska institutionen vid Lunds universitet, 2001).

¹⁷⁶ von Stiernman, *Commerce, Politie och Oeconomie... III*, 793–794.

¹⁷⁷ *Ibid. IV*, 88–89.

¹⁷⁸ *Ibid. III*, 527–528.

draw up an ordinance in order to get rid of all quacks who practiced the barber-surgeon's profession unlawfully.¹⁷⁹ The same year, barber-surgeons received permission to establish a "house of anatomy" (*anatomiae hus*) in Stockholm and use cadavers of criminals as "*subjectum*" for anatomy lessons.¹⁸⁰ Finally, in 1717, King Karl XII issued an ordinance in which he confirmed an earlier *reglemente* from 1686 that had been given to the barber's profession. The ordinance was extensive, including a total of 47 paragraphs. The first paragraph prescribed that those who aspired to become master craftsmen must not be predisposed to drunkenness or other vices. The ordinance also included provisions on the qualifications and competence of masters, journeymen, and apprentices; required practical training time; examinations; composition of the guild; and the like.¹⁸¹

Another profession that was regulated by means of police ordinances was pharmacists (*apothekare*). Keeping a pharmacy required a royal privilege. For instance, in 1675 Karl XI issued a privilege to one Julius Friedrich Friedenreich who was allowed to prepare and sell "all kinds of *Medicamenta, Aromata, Confecturer, Specirier, Semina, Elixier, Aqua-Vitae*".¹⁸² The issuing of privileges was a way to fight against a variety of quacks who practiced the profession causing danger to people by ordering false medicaments.¹⁸³

In addition to barber-surgeons and pharmacists, the empirical material also included one ordinance on midwives (*jorde-gummorne*) issued by the Medical Collegium. Midwives were to be "God-fearing, peace-loving, virtuous matrons who had disposition and sobriety for this business". In order to become a midwife, a woman needed a certificate from the Consistory about her background, Christian belief and way of life. Furthermore, an attestation from the *collegium medicum* on her practical skills was required. The objective of the regulation was to prevent accidents and injuries that an unskilled midwife could cause.¹⁸⁴ Midwifery was one of the most important objects of early modern *Medicinalpolicey* in German territories too. Regulation of the profession of midwife was particularly

¹⁷⁹ Ibid. IV, 501–502.

¹⁸⁰ Ibid., 502.

¹⁸¹ Ibid. VI, 373–385.

¹⁸² Ibid. IV, 79. See also pp. 89–91, 572–575.

¹⁸³ Ibid., 89–91, 572–575; V, 496–497.

¹⁸⁴ Ibid. VI, 48–56 (quotation from p. 49).

important in regard to the more general concern of early modern police about the strength and number of the population.¹⁸⁵

The Swedish *collegium medicum* was originally established as a kind of a corporatist association, i.e., a guild, for medical professionals in order to monitor the profession and to prevent unqualified persons from acting as barber-surgeons. The original privileges of the association of 1663 were confirmed by Karl XI's regency in 1680.¹⁸⁶ Later, in 1688, the privileges were confirmed anew by an ordinance, which also meant establishment of a countrywide health administration in Sweden. A comprehensive list of tariffs of various medications was annexed to these privileges.¹⁸⁷ In German territories, too, the origins of health authorities lay in the guild system. A *Medicinalkollegium* could participate in legislative action although the interests of doctors and the central administration did not always meet.¹⁸⁸

Burials were also a concern of public health. An ordinance was given in 1672 on the display of deceased persons in church crypts. The Governor of Stockholm was ordered to ensure that dead persons were not kept too long inside a church before the actual burial. Otherwise the church would be infused with an "intolerably strong stink" that would drive away church going people or make them ill.¹⁸⁹ Finally, a couple of ordinances regulated the activities of Sweden's first health spring, *Medewij suurbrunn*. The primary concern of the ordinances was all kinds of public disorder, mostly drunkenness and cursing, which took place at the spring. Visitors to the spring were ordered to lead a God-fearing and peaceful life since it was seen to promote the curative effect of the spring.¹⁹⁰

Poor Relief

As mentioned above, during the early modern period, a basic distinction was made between the deserving poor and the undeserving poor. This common European distinction was based on religious-moral and

¹⁸⁵ Martin Dinges, "Medicinische Policey zwischen Heilkundigen und 'Patienten' (1750–1830)," in *Policey und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 283.

¹⁸⁶ von Stiernman, *Commerce, Politie och Oeconomia... IV*, 268–274.

¹⁸⁷ Ibid., 1045–1166. See also B. Meijer and Th. Westrin, ed., *Nordisk Familjebok: Konversationslexikon och Realensyklopedi. Femte bandet* (Stockholm: Nordisk familjeboks förlags aktiebolag, 1906), 532–533 ('Collegium Medicorum').

¹⁸⁸ Dinges, "Medicinische Policey," 275–278.

¹⁸⁹ von Stiernman, *Commerce, Politie och Oeconomia... III*, 1048.

¹⁹⁰ Ibid. *IV*, 456–461; *VI*, 159–161.

economic argumentation. Classifications of the poor and poverty were written during the early modern period. For instance, according to one classification, there existed three categories of the poor: deserving poor who were poor either (1) 'by impotence' (orphans, the elderly, the blind, the lame) or (2) 'by casualty' (wounded soldiers, the sick), and (3) undeserving poor who had consumed their fortunes with a riotous life, led a vagabond life, or were simply rogues.¹⁹¹

In the course of the seventeenth century, the ideological division between the deserving poor and the undeserving poor seems to have become an ever clearer feature of poor relief in Sweden, too. In 1642, Queen Kristina issued an Ordinance on How to Deal with Beggars and Poor Who are Rightfully in Need of Alms. The first section of the ordinance prescribed that all hospitals that received their funding from the crown were to keep a close eye on those who wished to be admitted to an institution; they were to be "worthy" (*wärd*) of admittance. According to the second section, people who were sick because of old age or feebleness, raving mad, or with a contagious disease all answered the criterion of 'worthiness'. Furthermore, poor people could get "passports for begging" (*pass til at tigga*) if they could show "rightful grounds" (*rättmätige skääl*) for begging.¹⁹² The 1642 ordinance in fact introduced a more lenient stance towards begging because in 1624 begging had still been categorically outlawed. It has been argued that in 1642 the government made a virtue of necessity "by accepting begging as a proper alternative to public support" because social problems and poverty had been growing rapidly.¹⁹³

In order to tackle growing problems, sometimes authorities organized collecting of alms. For instance, it was ordered in 1650 that all those who visited and attended their businesses in any of the royal *collegii* should give money, a sum that each saw fit, to the "poor bags" (*fattig-bössör*) placed there.¹⁹⁴ In 1663, the Town Administrative Court (*magistrat*) of Stockholm was ordered to organize a general collection of alms once a month.¹⁹⁵ Three years later, in 1666, it was ordered that all the salt that had been collected as customs duty was to be sold for the benefit of the poor and distressed.¹⁹⁶ In 1699, a lottery for the good of the poor was orga-

¹⁹¹ Jütte, *Poverty*, 11.

¹⁹² von Stiernman, *Commerce, Politie och Oeconomie . . . II*, 328, 330–332.

¹⁹³ Kouri, "Health Care," 191.

¹⁹⁴ von Stiernman, *Commerce, Politie och Oeconomie . . . II*, 646–647.

¹⁹⁵ *Ibid.* III, 155–156.

¹⁹⁶ *Ibid.*, 391.

nized “with His Majesty’s merciful permission”.¹⁹⁷ In the spring of 1718, peasants were allowed to borrow grain from magazines and pay it back *in natura* after the harvest.¹⁹⁸

However, a different kind of treatment was reserved for the poor who were fit to work, i.e., the undeserving poor. A statute on the administration of cities from 1619 ordered that an orphanage (*barnhus*) should be erected in each city in order “to get rid of begging that so many in their childhood get accustomed to”.¹⁹⁹ As soon as the children were old enough, they were to leave the orphanage and start working as apprentices to learn a trade. In 1650, Queen Kristina confirmed the yearly income and rights of the orphanage of Stockholm. It was to receive yearly every fortieth barrel of grain that was collected as tax from certain provinces plus one thousand thalers collected as domestic customs duties. Furthermore, all employees of the orphanage were exempt from paying taxes for the town.²⁰⁰ Later, the orphanage received permission to engage in manufacturing.²⁰¹

The 1698 Statute and Ordinance on Beggars and the Poor was a renewed version of the ordinance of 1642. The new ordinance was still based on the distinction between the deserving and undeserving poor but now new measures were devised for the undeserving: a “Work-, Rasp- and Spin house” (*arbets-, rasp- och spinne-hus*) was to be erected in Stockholm where all “idlers” (*lättingar*) were to be taken and put to work.²⁰² The inmates of these institutions filed colourants from wood or spun linen. They could also be put to clean the streets.²⁰³ From the late sixteenth century onwards, and especially in the seventeenth and eighteenth centuries, in German speaking territories on the Continent several *Zuchthäuser* and *Arbeitshäuser* were established for the education of children and to fight idleness and begging.²⁰⁴

Finally, the Church Law of 1686 included an entire chapter on hospitals. The second paragraph of the chapter promised that all existing as well as future hospitals were to receive certain funds for their operation. Misappropriation of these funds constituted the crime of theft and was to be “punished twice as hard” (*dubbelt straff*) as other thefts. The

¹⁹⁷ Ibid. V, 783–786.

¹⁹⁸ Ibid. VI, 493.

¹⁹⁹ Ibid. I, 752.

²⁰⁰ Ibid. II, 629–631.

²⁰¹ Ibid. III, 372–376; IV, 93–94.

²⁰² Ibid. V, 726–730 (quotations from p. 726).

²⁰³ Ibid., 730–735.

²⁰⁴ Scheutz and Weiß, “Spitäler”, 194.

governor and bishops were in charge of monitoring hospitals. No one was to receive maintenance from hospitals unless they really deserved it. Incomers were obliged to pay a sum of twenty thalers for their upkeep but if they had no money, the sum would be collected “from good people” (*hos godt folk*).²⁰⁵ As already mentioned, during the early modern period the central authorities started to pay attention to the administration and operation of hospitals.

Education and Schooling, Culture

A total of seven ordinances between 1612 and 1718 dealt with issues concerning education, schooling and culture. First of all, the 1619 Statute on the Administration of Towns stated that all those towns that could afford it were to establish “calculation schools” (*räknescholar*) in order to teach youths the numeracy that was especially useful in commerce.²⁰⁶ Six years later, an Ordinance for the Correction [*optuchtelse*] of children in the City of Jönköping was issued. Gustav II Adolf regretted that although he had invested funds in order to encourage different trades and professions to flourish in Jönköping, many parents did not put sufficient effort into the upbringing of their children. The king therefore ordered that as soon as a child turned seven he was to be sent to school in order to learn how to read, write and calculate. Alternatively, children could also be placed in an apprenticeship to learn a trade. If the parents failed in their obligation to do so, a monthly conditional fine of ten thalers could be imposed. If a youth at the age of sixteen had still not learned a trade, he was to lose one third of his inheritance.²⁰⁷

According to the teachings of Lutheran reformers, family, Church, and the state formed a ‘pedagogical triangle’. Education was an essential element for the existence of the earthly kingdom. If parents neglected their educational duty, rulers were obliged to intervene and ensure that children received a proper education and learned a useful trade. In order to serve the fatherland, schooling must be started at an early age.²⁰⁸

An extensive Ordinance on Secondary Schools and Schools (*gymnasier och scholar*) was given in 1693. The express motive behind the ordinance was that if children were allowed to spend their youth in “laziness, obsti-

²⁰⁵ Schmedeman, *Justitiæ och Executions-Ähren*, 1066–1069 (quotations from pp. 1066, 1067).

²⁰⁶ von Stiernman, *Commerce, Politie och Oeconomie . . . I*, 752.

²⁰⁷ *Ibid.*, 926–928.

²⁰⁸ Witte, *Law and Protestantism*, 265–271.

nancy and self-righteousness, it would be to the detriment and disgrace of the fatherland". The ordinance comprised four chapters with numerous paragraphs. Provisions were given on the assigning and conditions of qualification of schoolmasters, the relationship between schoolmasters and pupils, the subjects to be taught, and the curriculum. According to the curriculum, students were divided into five classes. Latin and Swedish as well as the Short Catechism (*lilla catechismum*) were studied in the first class; second graders were supposed to go more deeply into Latin grammar, religious texts, and classical literature such as Aesop's *Fables*.²⁰⁹ The curriculum followed closely the curriculums drawn up by Lutheran reformers for Latin schools. It was also common in German territories that new pedagogical thinking found its way into state legislation, either as separate *Schulordnungen* or as part of more encompassing *Kirchenordnungen* or *Policeyordnungen*.²¹⁰

The empirical material also included a couple of ordinances on universities although these ordinances were of lesser importance. An open letter was sent to the professors of the University of Upsala saying that they were exempted from certain taxes (*mantals- och bakungspenningar*) as was also the custom in foreign countries.²¹¹ In 1695, an ordinance on the ranking of professors was issued. The professor of theology in Upsala University was ranked first.²¹² In 1717, permission was granted to the University of Upsala to establish a "sickroom" (*sjukstuga*) for educational purposes.²¹³

Finally, one ordinance issued in 1684 concerned matters of what might be termed cultural heritage. Namely, the ordinance stated that anyone who found old coins; gold, silver or copper jewellery; metal pots; or other rare items hidden in the ground were to report their find to the authorities. If no one came and claimed ownership after one year and a day, the king received two thirds of the find and the finder one third.²¹⁴

Economic System and Professions

Matters concerning the economic system and professions also formed the biggest category of police matters during the second research period of

²⁰⁹ von Stiernman, *Commerce, Politie och Oeconomie...* V, 382–394 (quotation from p. 383).

²¹⁰ Witte, *Law and Protestantism*, 272–279.

²¹¹ von Stiernman, *Commerce, Politie och Oeconomie...* IV, 519.

²¹² Ibid. V, 520.

²¹³ Ibid. VI, 323.

²¹⁴ Ibid. IV, 598–600.

1612–1718. This time, a total of 642 ordinances dealt with economy and professions. This amounts to 64 % of all the police matters of the period. This category is further divided into seven sub-categories as indicated in Table 9.

Table 9: Matters of the Economic System and Professions 1612–1718 (n=642)

4.1 Agriculture	4.2 Forestry and Land Use	4.3 Industrial Production	4.4 Work Regulation	4.5 Handicrafts and Trades	4.6 Commerce and Service Branch	4.7 Monetary and Credit System
8	87	54	6	40	344	103

Agriculture

No more than eight ordinances dealt with agriculture during the second research period. In 1681, Karl XI issued an ordinance on “farm inspections” (*husesyns*). The object of the ordinance was to give instructions to both independent farmers and sharecroppers on how to run a farm properly and to make it profitable. Paragraph one of the ordinance stated that before taking possession of land, a careful inventory was to be conducted in order to determine the area of the farm and its chattels. According to paragraph three, farmers were responsible for farming the land, keeping the meadows trimmed, building a proper house, creating hop gardens, and paying the yearly rent/tax (*afrad*) to the land-owner.²¹⁵ In 1696, an individual ordinance was issued on the farm inspection of military officers’ farms. The ordinance dealt mainly with the procedure to be followed in the inspection.²¹⁶ One individual ordinance was given on hop gardens. The ordinance referred to a provision in the Law of the Land according to which farmers were obliged to set up hop gardens.²¹⁷

In addition to cultivation, animal husbandry was also regulated. An ordinance from 1680 allowed stud-farms (*stuterijer*) to be established in the province of Skåne. This would benefit the country and its inhabitants.²¹⁸ In 1696, an ordinance was given on the disposal of dead horses and other animals. The ordinance claimed that too often dead animals were left lying around, which caused a nasty stink, contagion and illnesses. Farmers’ ser-

²¹⁵ Schmedeman, *Justitie och Executions-Ähreder*, 738–746.

²¹⁶ Ibid., 1461–1465.

²¹⁷ von Stiernman, *Commerce, Politie och Oeconomie* . . . IV, 885–886.

²¹⁸ Ibid., 252–253.

vants in the countryside were obliged to burn all dead animals, and in the cities special persons were to be appointed to be in charge of disposing of dead animals against a small fee.²¹⁹

The material also included three ordinances on a more exotic matter, namely, on pearl fishing (*pärle-fiskeri*). In order to benefit the crown and the land, Karl XI made pearl fishing a royal privilege (*regale*). Landowning farmers were still allowed to practice pearl fishing on their own land as long as they did not harvest pearls too early. However, sharecroppers on crown land were obliged to deliver collected pearls to certain authorities where they would receive due payment.²²⁰

Forestry and Land Use

A clear increase in ordinances concerning forestry and land use took place in comparison to the first research period. Although this sub-group remained thematically the same – i.e., fishing, hunting, forestry and mining still formed the main areas of regulation – the economic expansion witnessed in the seventeenth century had a direct impact on the amount of police ordinances especially in regard to mining.

Fishing was regulated in six ordinances. In 1652, Queen Kristina issued privileges to certain persons to establish a codfish company (*bergerfiske compagniet*). The company received the right to sell for a “reasonable price” in Stockholm as much codfish as they could catch.²²¹ In 1666, a *placat* was issued in which the fishing of herring was regulated. The ordinance stated that the fishing of herring was allowed all over the seas but fishing ships should bring their catch to designated ports only. The purpose of the ordinance was to ensure that the crown would not lose its tax revenue.²²² In the following year, Karl XI issued a privilege to a Dutchman to practice fishing herring in Sweden “according to Dutch customs and ways”.²²³ Lastly, one ordinance, issued in German, concerned whaling (*Hwalfischfang*). One Marten Klinkow was granted a privilege to hunt whales in the waters of Greenland. Klinkow was also allowed an exclusive right to sell whale blubber and whale bones.²²⁴

²¹⁹ Ibid. V, 583–584.

²²⁰ Ibid., 241–244, 342–343, 497–499.

²²¹ Ibid. II, 684–687.

²²² Ibid. III, 384–387, 778.

²²³ Ibid., 490–492 (quotation from p. 490). See also pp. 767–768.

²²⁴ Ibid., 67–69.

In comparison to the previous century, ordinances on hunting remained much the same during the seventeenth century. Queen Kristina issued an ordinance in 1637 in which she forbade the hunting of birds and other animals in crown parks and hunting grounds because these areas were “placed under protection” (*fredkallade*) by the Law of the Land.²²⁵ Ordinances on hunting particular animals were also issued. For instance, in 1620, a statute was issued on the hunting of deer on [the Islands of] Åland.²²⁶ The following year, an ordinance against shooting birds on crown land was issued. Shooting was forbidden especially during the mating season. Shooting swans was altogether banned.²²⁷ In 1647, a more general and extensive ordinance was given on hunting. The preamble to the ordinance crystallizes aptly why hunting was also a matter to be regulated through police ordinances. The preamble stated that an “abundance of all kinds of animals of the forest and birds was beneficial and useful for nourishment, clothing and recreation”.²²⁸ Paragraph one of the ordinance proclaimed that shooting deer was forbidden throughout the realm unless one had been granted a privilege. In some provinces, however, shooting was allowed during the hunting season. Paragraph five permitted the nobility to hunt on their own premises as they pleased. According to paragraph fourteen, all men were allowed to hunt animals that caused damage, namely bears, wolves, foxes, wild cats, and pine martens.²²⁹

The third theme, i.e., forestry, was touched upon in sixteen ordinances. Forests were an important natural resource during the early modern period. In Sweden in the seventeenth century the largest portion of all wood still went for domestic use – for building and firewood. A portion of wood was exported in the form of sawn timber. A notably bigger portion was used for tar burning. It has been estimated that during the seventeenth century ca. 1.5–1.8 million tall trees were yearly cut down for tar burning.²³⁰

The early seventeenth-century ordinances on forestry simply forbade the cutting of trees on crown estates. A fine for cutting down an oak or an

²²⁵ Schmedeman, *Justitiæ och Executions-Åhreder*, 229–231. See also von Stiernman, *Commerce, Politie och Oeconomie . . . II*, 317–320, 612–615; *IV*, 12–13, 494–450; Schmedeman, *Justitiæ och Executions-Åhreder*, 286–288, 1247–1248. The provision in the Law of the Land on hunting of animals on crown's land, see Schlyter, *Konung Christoffers Landslag*, Kg:34.

²²⁶ Schmedeman, *Justitiæ och Executions-Åhreder*, 189–190.

²²⁷ *Ibid.*, 191–192.

²²⁸ *Ibid.*, 263.

²²⁹ *Ibid.*, 263–269. See also pp. 360–366.

²³⁰ Heckscher, *Sveriges ekonomiska historia . . . I*: 2, 427–437.

apple tree was forty silver thalers. If walnut, rowan or linden was chopped down, the amount to be paid was ten thalers. Cutting down birch, spruce or pine brought only a two thaler fine.²³¹ The ordinance well attests to the importance of hardwood mainly in shipbuilding. For instance, oak trees could not be used for lesser purposes such as making barrels.²³² In addition, the export of oak was banned.²³³ In 1647, a comprehensive Forest Order (*skogz-ordning*) was issued in which the main uses of wood were listed: building, sailing, the mining industry, handicrafts, and other necessities. The ordinance ordered that an inventory of all common forests was to be carried out. Furthermore, the usufruct of these forests was to be determined. The ordinance also included provisions on lawful usage of common forests. The ordinance was issued "for the preservation and careful maintenance, as well as moderate and just use, and prevention of all misuse of forests".²³⁴ The same year another ordinance was issued where the replanting of trees was regulated. Paragraph one of this ordinance prescribed that for each cut down hardwood tree two new saplings of the same species were to be planted.²³⁵ Special ordinances were given on the use of wood for tar burning,²³⁶ making potash,²³⁷ and building ship masts.²³⁸

It can be argued that Swedish police regulation of the different uses of forests followed much the same trends as in German territories. There, too, police ordinances became more extensive, more numerous and more detailed especially towards the eighteenth century. Although police ordinances on forests became more complex and new motivations (e.g. ecological) for regulation emerged, one of the central motives for control was still economic-political, i.e., who had to right to use forests and who did not.²³⁹

²³¹ von Stiernman, *Commerce, Politie och Oeconomie*... II, 319, 614. For later ordinances of a similar kind, see *ibid.* IV, 231–232; V, 401–403.

²³² *Ibid.* III, 303–304.

²³³ *Ibid.*, 336–337.

²³⁴ Schmedeman, *Justitiae och Executions-Ähreder*, 246–258, quotations from pp. 247, 257. This ordinance was renewed in 1664, see pp. 341–354. See also pp. 857–859, 1293–1300.

²³⁵ *Ibid.*, 258–263. This ordinance was also renewed in 1664, see pp. 355–360.

²³⁶ von Stiernman, *Commerce, Politie och Oeconomie*... III, 91–92.

²³⁷ *Ibid.* IV, 223.

²³⁸ *Ibid.*, 43–44.

²³⁹ See Christoph Ernst, "Forstgesetze in der Frühen Neuzeit: Zielvorgaben und Normierungsinstrumente für die Waldentwicklung in Kurtrier, dem Kröwer Reich und der Hinteren Grafschaft Sponheim (Hunsrück und Eifel)," in *Policy und frühneuzeitliche Gesellschaft*, ed. Karl Härter (Frankfurt am Main: Vittorio Klostermann, 2000), 377–381.

The mining industry was the fourth largest theme in police ordinances of the sub-category of forestry and land use. In comparison to the previous century, the crown's policy concerning mining changed during the seventeenth century. The crown sold and rented out its mines to burgers and during the latter part of the century also to the nobility. However, the crown wanted to maintain control of the industry by establishing new administrative bodies as well as through regulation of production and prices. Later in the century, the prerequisites for active involvement in the industry improved when the Bank of Estates was established and started to give loans to the owners of mines and ironworks.²⁴⁰

In comparison to the previous century, ordinances on mining experienced both a quantitative as well as a qualitative change. During the seventeenth century, a total of 56 ordinances on mining were given. Furthermore, whereas in the previous century the ordinances mainly included privileges for miners, ordinances were now issued on different mining professions, the guild system, manner of production, and the like.²⁴¹ For the crown, the motive for regulating the mining industry was first and foremost economic. Both peace and order in the mining camps as well as more efficient methods of production meant better productivity, i.e., more income and tax revenues.

In regard to order in mining camps and mines, the Mining Articles (*grufwe-articlar*) of 1612 appeared important. According to this ordinance, a "mining bailiff" (*grufwe-fogden*) was responsible for maintaining order in the mines. No cursing and drunkenness was allowed for it made "God angry". The punishment for both of these was a 40 mark fine and imprisonment.²⁴² The economic aspects are well manifest in paragraph two of the 1621 ordinance for miners: mining masters (*bergmästare*) were to choose "strong and willing miners" who could pay the determined tax (*avrad*) to the crown.²⁴³

In the course of the century, various mining professions received their guild regulations. For instance, in 1637, a Hammersmith Order (*hammarsmeds-ordning*) was issued. The ordinance embodied provisions on the competence of hammersmiths, the guild system, the quality of their

²⁴⁰ See Rita Bredefeldt, *Tidigmoderna företagarstrategier: Järnbrukens ägar- och finansieringsförhållanden under 1600-talet* (Stockholm: Stockholms universitet, 1994), 182–191.

²⁴¹ Of course, privileges were still promised in the 17th century also for those who discovered new metal or mineral veins, see *Bergwerken och Bruken*, 91–95, 138–142, 191–193, 282–288.

²⁴² *Ibid.*, 38–40.

²⁴³ *Ibid.*, 41–50. See also pp. 53–61, 63–68, 142–172, 539–553.

work, and so on.²⁴⁴ The following year, an ordinance was given for “smelting furnace masters” (*masmästare*). The ordinance stated, among other things, that because the methods used by foreign masters had proven to be more productive, domestic smelting furnace masters were to follow their example.²⁴⁵ In 1664, an ordinance for “smelters and fire bar turners” (*smältare och rostwändare*) claimed that smelters were not always competent enough so that a portion of ore (*malm*) was lost in the smelting process. However, the experience of both the Hammersmith Ordinance and the Smelting Master Ordinance had taught the king that defects could be fixed by good “*ménage*” of the profession. Therefore, the mining masters were given the task of evaluating all smelters and choosing the best for aldermen and smelter masters. The rest were to work as apprentices. The task of the smelter masters was to see that smelting furnaces were correctly built.²⁴⁶

It was also important for the mining industry that mining camps were secured in terms of food supplies and draught animals. A handful of ordinances thus regulated the sale of oxen, firewood, coal, and food supplies for the miners.²⁴⁷ Special ordinances were also given on the “customs duty on iron” (*järn-tullen*) and other taxes.²⁴⁸

Industrial Production

Whereas the empirical material did not include a single ordinance on industrial production from the first research period, the second research period brought a notable change since the material now embodied a total of 54 ordinances on industrial production. Most of the ordinances were privileges given both to foreign and domestic entrepreneurs who wanted to establish manufactories in Sweden. Compared to Continental Europe, the proportion of metal manufactories in Sweden was higher because of the strong mining industry. Respectively, the number of textile manufactories was smaller than, for instance, in France or England. The quality of Swedish cloth was also inferior. The nobility and burghers often acquired their clothes and other utensils from abroad. Although ordinances on manufacturing privileges are quite numerous, it is difficult to evaluate

²⁴⁴ Ibid., 85–90. The ordinance was specified later in the same year, see pp. 102–104. A new ordinance was given in 1649, see pp. 176–183.

²⁴⁵ Ibid., 104–108. The ordinance was renewed in 1649, see pp. 172–176.

²⁴⁶ Ibid., 227–237. The ordinance was renewed in 1692, see pp. 444–456.

²⁴⁷ Ibid., 61–62, 69, 95–99, 123–125, 128–133, 183–187, 195–202.

²⁴⁸ Ibid., 50–51, 109–110, 126–127, 492.

their impact in practice.²⁴⁹ Nevertheless, they attest to a strengthening effort for domestic industrial production and the crown's willingness to support that aspiration.

As noted, the majority of ordinances were privileges given to various sorts of manufactories. Privileges were granted, among other things, to sugar refineries,²⁵⁰ salt-works,²⁵¹ textile factories,²⁵² a potash distillery,²⁵³ a tinplate factory,²⁵⁴ an anchor foundry,²⁵⁵ paper mills,²⁵⁶ a glue distillery,²⁵⁷ ironworks,²⁵⁸ glassworks,²⁵⁹ a marble works,²⁶⁰ sail weaving mills,²⁶¹ tanneries,²⁶² a seal blubber distillery,²⁶³ a lime mill,²⁶⁴ a brass mill,²⁶⁵ a sword forging mill,²⁶⁶ an oil pressing plant,²⁶⁷ and a rifle factory.²⁶⁸ The material also included one general privilege, i.e., an ordinance that granted privileges to whomsoever wanted to establish "houses of trades" (*handwerkshusen*) in the realm.²⁶⁹ These were meant to be corporations or communities of individual tradesmen who would benefit from working together.²⁷⁰ Furthermore, ordinances were also given to ban the import of foreign cloths because they were considered a threat to domestic textile manufactories.²⁷¹ All domestic silk cloth was to be furnished with a stamp and a signet so that it could be identified from foreign silk.²⁷²

²⁴⁹ Heckscher, *Sveriges ekonomiska historia*... I:2, 507–514.

²⁵⁰ von Stiernman, *Commerce, Politie och Oeconomie*... III, 54–56, 88–91, 398–401.

²⁵¹ Ibid., 291–294, 387–388, 798–799, 875–877; IV, 183–185; VI, 366–368.

²⁵² Ibid. II, 770–775; III, 178–180, 378–383, 794–796; IV, 14–16, 578–580; VI, 224–225, 445–447.

²⁵³ Ibid. II, 758–764.

²⁵⁴ Ibid. III, 198–199.

²⁵⁵ Ibid., 804–805.

²⁵⁶ Ibid., 831–836; IV, 451–452.

²⁵⁷ Ibid. III, 878–879.

²⁵⁸ Ibid. III, 880–882; IV, 455–456.

²⁵⁹ Ibid. III, 941–943; IV, 144–149.

²⁶⁰ Ibid. IV, 40–42.

²⁶¹ Ibid., 62–64, 171–173; VI, 345–347.

²⁶² Ibid. III, 73–75, 800–803; IV, 70.

²⁶³ Ibid. IV, 473–477.

²⁶⁴ Ibid., 516–519.

²⁶⁵ Ibid., 564–566.

²⁶⁶ Ibid. V, 825–827.

²⁶⁷ Ibid., 912–913.

²⁶⁸ Ibid. VI, 203–206.

²⁶⁹ Ibid. III, 699–712.

²⁷⁰ Heckscher, *Sveriges ekonomiska historia*... I:2, 511.

²⁷¹ von Stiernman, *Commerce, Politie och Oeconomie*... V, 339–341, 397–401, 457–459.

²⁷² Ibid., 419–420.

The motivation for issuing privileges for various sorts of manufactories was much the same in all ordinances: each manufactory would benefit the realm and its inhabitants. For instance, when a privilege was granted to one Jurgen Erhorn to establish a silk manufactory in Gothenburg, Karl XI stated that "We always with pleasure like to promote and endorse manufactories which are an excellent means to benefit the fatherland and its inhabitants".²⁷³ It was thought that foreign manufacturers would also introduce the secrets of a particular industry to domestic entrepreneurs.²⁷⁴ The privileges almost always included an exclusive right to practice the industry and an exemption from customs duties as far as the import of raw materials was concerned.

In addition to privileges, a handful of ordinances included guild rules on certain manufacturing professions. For instance, in 1661, the regency of Karl XI issued a *placat* for the manufactories of the town of Eskilstuna. The ordinance stated that complaints to the king had been made about foreign apprentices and even masters who had run away from the manufactories, thus causing serious economic losses to the owners. Paragraph one of the ordinance therefore prescribed that no foreign masters were allowed to quit a manufactory before the expiry of their contract. Otherwise, they would be hold infamous and their name would be marked in the pillory as a warning to others.²⁷⁵ In the following year, another ordinance was given for the apprentices of the manufactories of Eskilstuna. The ordinance granted the apprentices a right to settle themselves anywhere in Sweden and practice their trade after five years paid service in the manufactories.²⁷⁶ In 1680, the old privileges of all factory managers were confirmed.²⁷⁷ Three years later, in 1683, the foreman of the ironworks of the manor of Jäder, one Willhelm Schaey, received a *reglemente* according to which he was to operate. His task was to see, among other things, that all workers were God-fearing people and did not made themselves guilty of swearing, drunkenness, contentiousness, or other such sins. He was also to ensure that the products of the ironworks were of good quality.²⁷⁸ Later in the same month, the glassworks of Stockholm received its working regulations concerning workers and their pay, working hours, workplace

²⁷³ Ibid. IV, 14.

²⁷⁴ See e.g. *ibid.*, 70, 146.

²⁷⁵ Ibid. III, 50–53.

²⁷⁶ Ibid., 93–94.

²⁷⁷ Ibid. IV, 289–290.

²⁷⁸ Ibid., 533–547.

discipline, and the like.²⁷⁹ Regulations were also given for the weavers of Stockholm²⁸⁰ and tinplate workers (*kanngiutare*).²⁸¹

Work Regulation

Six ordinances dealt with work regulation of servants. In 1664, the regency of Karl XI gave a Statute on Servants (*stadga och påbudh om tienstefolck och legohion*). The reason for giving the statute was “disorder” that existed amongst servants, namely that they had become so “expensive and reluctant”. Therefore, the statute incorporated provisions on statutory service periods and “free periods”, the duties of servants, their pay, and so on. For instance, paragraph seven of the statute ordained that the pay of the servants consisted of both clothes and money. Because variation in the amount of pay might occur depending on region, in the countryside all disputes concerning the right level of pay were to be tried in district courts whose responsibility was to determine the general level.²⁸² Later in the century, the king gave confirmations to regional decisions on the statutory level of pay.²⁸³

In two ordinances the status of the servants of the nobility was touched on separately. For instance, the Manorial Court Order or House Discipline (*gårdz-rätt eller hus-disciplin*) of 1671 which regulated the status of servants in the manors of the nobility included provisions on hiring servants and their terms of employment. Paragraph one stated that no nobleman was allowed to hire a servant who had led an infamous life or if the candidate could not provide documents of his or her former employments.²⁸⁴ In 1675, a *placat* was issued on craftsmen (*förswars karlar, embetsmän*) employed by the nobility or burghers in towns. The ordinance set strict conditions for such employment. If a craftsman was exclusively working for a nobleman and getting his pay from the latter, the employment was admissible. However, if a craftsman also accepted commissions from other persons, he would then be regarded as an independent tradesman and therefore falling under the “urban tax burden” (*borgelig tunga*).²⁸⁵

²⁷⁹ Ibid., 548–556.

²⁸⁰ Ibid., 1201–1210.

²⁸¹ Ibid. V, 453–456.

²⁸² Ibid. III, 242–247 (quotations from p. 242). In 1686, the 1664 Statute on Servants was renewed and modified. See *ibid.* IV, 683–691.

²⁸³ Ibid. IV, 607–610, 1001–1008.

²⁸⁴ Ibid. III, 852–859.

²⁸⁵ Ibid. IV, 100–102 (quotation from p. 101).

Handicrafts and Trades

A total of 40 ordinances included provisions on handicrafts and trades. Among these ordinances were both general guild rules for various handicrafts and trades as well as regulations for particular professions. The first General Guild Regulations (*general embetes skrå*) were issued in 1621 by Chancellor Oxenstierna and Governor Lars Skytte (1574–1634) mandated by the king who also gave his confirmation later. The preamble to the ordinance stated that if some profession wanted to make changes to the general regulations to fit the special characteristics of the profession, those changes needed to be sent to the king for further ratification. Paragraph one of the rules stated that bigger and wealthier guilds could have their own guild houses for their meetings whereas smaller guilds were allowed to build common guild houses. Paragraph two stated that each profession must elect an alderman whose duty was to examine and judge all the cases of the guild as well as to see that the guild rules were complied with. In addition, the ordinance contained provisions on masters, journeymen and apprentices; subsistence of the widows of craftsmen; exemptions from recruiting; punishments; levies to the guild; and the like.²⁸⁶ A similar kind of general guild ordinance was issued later in the century, in 1669.²⁸⁷

In addition to these general guild rules, particular professions also regularly received ordinances on their activity. Ordinances were given on brewers and brewing,²⁸⁸ butchers,²⁸⁹ bakers,²⁹⁰ skinners,²⁹¹ cobblers,²⁹² tailors,²⁹³ button makers,²⁹⁴ saddlers,²⁹⁵ blacksmiths,²⁹⁶ goldsmiths,²⁹⁷ coppersmiths,²⁹⁸ stonemasons and gem cutters,²⁹⁹ shipbuilders,³⁰⁰ and rope makers.³⁰¹ One ordinance was even issued for a diver called George

²⁸⁶ Ibid. I, 781–793. See also pp. 807–809.

²⁸⁷ Ibid. III, 733–755.

²⁸⁸ Ibid. I, 601, 654–655, 755, 865–868; III, 298–302, 903–906; IV, 162, 427–431; V, 693–694; VI, 550–553.

²⁸⁹ Ibid. I, 853–862; II, 377–378; III, 908–911; IV, 433–436.

²⁹⁰ Ibid. I, 862–865; III, 907–908; IV, 431–433; V, 553–554.

²⁹¹ Ibid. II, 694–694, 103–104, 207–208; IV, 492–493.

²⁹² Ibid. VI, 344.

²⁹³ Ibid. II, 635–637.

²⁹⁴ Ibid. IV, 505–506.

²⁹⁵ Ibid., 510.

²⁹⁶ Ibid. I, 756–757, 793–803; IV, 199, 499–500.

²⁹⁷ Ibid. II, 26–27, 775–776; III, 175; IV, 139–140, 234–235.

²⁹⁸ Ibid. III, 170–172; IV, 232–233.

²⁹⁹ Ibid. II, 269–270; III, 26–28.

³⁰⁰ Ibid. III, 897–899, 1032–1036.

³⁰¹ Ibid. V, 478–485.

Coberton in 1682. He was given a privilege to make dives in order to salvage artefacts from the warship *Vasa* that had sunk during her maiden voyage in 1628.³⁰² Furthermore, craftsmen in general were also encouraged to move to Stockholm by promising them exemptions from all extraordinary levies.³⁰³ As in the sixteenth century, craftsmen were not allowed to practice their trade in the countryside.³⁰⁴ One ordinance urged the Governor (*öfwer-ståthållaren*) and the Town Administrative Court (*magistraten*) of Stockholm to supervise that craftsmen did not raise their prices during times of plague and scarcity.³⁰⁵ A couple of ordinances were given on journeymen (*gesäller*), one saying that they were exempt from recruiting.³⁰⁶

The establishment of order within various handicrafts and trades was not something that the trades solely aspired to themselves. Of course, it was in the interest of a particular guild to protect the profession from outside competition and incompetent craftsmen. But it was also in the interest of the crown to try to ensure that it received all the revenues imposed on professions. An unauthorized craftsman did not bring any money to the coffers of the crown. For instance, paragraph twenty-four of the general guild ordinance of 1621 stated that when the time to tax professions was at hand, the aldermen of bigger professions should always be present “for they know best what the status of each and every fellow craftsman is and how high taxes can be imposed on them”.³⁰⁷

The crown’s growing interest in controlling craftsmen from the 1680s onwards is related to a more comprehensive attempt to increase tax revenue in order to wage war. As mentioned above, it was in 1673 that Karl XI carried out a great reduction by confiscating 25 % of the landed property of the nobility that it had received as grants since 1632. In 1680, Karl XI issued a decree ordering that all landless craftsmen should pay taxes directly to the crown. In fact, this had been the law ever since the Middle Ages but it had been poorly implemented. With the decree the king wanted to get rid of a somewhat of a new custom according to which a landless craftsman could pay a yearly tax called “*gärningsöre*” to a city and thus be counted as a ‘citizen’. This ‘citizenship’ status offered craftsmen protection against

³⁰² Ibid. IV, 511–512.

³⁰³ Ibid. III, 899–901.

³⁰⁴ Schmedeman, *Justitiæ och Executions-Ährennder*, 226.

³⁰⁵ von Stiernman, *Commerce, Politie och Oeconomie*... VI, 87–88.

³⁰⁶ Ibid., 493, 499–500.

³⁰⁷ Ibid. I, 792.

the crown's endless attempts to recruit men without employment into the army. So, there was a double gain for the crown to be achieved: those craftsmen who could not pay the tax to the crown (and thus were not considered 'real' craftsmen) could be recruited.³⁰⁸

Commerce and Service Branch

A total of 344 ordinances included provisions on the commerce and service branch. As during the previous century, commerce in the seventeenth century also formed the most important field of regulation at least judged by the number of ordinances in the compilations. Again because it would be impossible to provide a comprehensive account of these ordinances here, only the general themes will be described below. If one compares these themes to those of the previous century, i.e., trading rights and fairs, control of prices, export bans, customs duties and excises, and inns and taverns, no notable change took place. However, two phenomena are worth mentioning. Firstly, the increase in the relative proportion of ordinances on customs duties, and secondly, the emergence of ordinances on various trading companies.

The right to practice trade still continued to be one of the major objects of regulation during the seventeenth century. Kings issued both general trade orders that concerned the whole realm as well as special ordinances that dealt with the trading rights of particular regions or towns. For instance, the Trading and Sailing Order (*handels och seglations ordning*) of 1614 encompassed comprehensive provisions on the right of foreigners to practice trade in Sweden, the right of the burghers of individual Swedish towns to practice foreign and domestic trade, the ban on illegal trade in the countryside, and the like. The ordinance stated, among other things, that foreign ships were allowed to sail only to predetermined bigger towns such as Stockholm; that certain Swedish towns were allowed to export products abroad whereas others could only sell their products in Stockholm; that the burghers of Stockholm and a few other bigger towns could not sell their products in the countryside; that nobles could not practice trade in towns, and so on.³⁰⁹ A similar kind of general trade order was

³⁰⁸ The 1680 decree does not occur in the source material of this study. See Carl-Johan Gadd, *Sjävhuishåll eller arbetsdelning? Svenskt lant- och stadshandverk ca. 1400–1860* (Göteborg: Meddelanden från ekonomisk-historiska institutionen vid Göteborgs universitet 64, 1991), 228–255.

³⁰⁹ von Stiernman, *Commerce, Politie och Oeconomia... I*, 591–602.

issued in 1673 although it was not as detailed as its precursor.³¹⁰ The material also included a Trade Order (Germ. *Wettordnung*) given to the Town of Riga.³¹¹ As an example of the dozens of ordinances on trading rights of particular regions or towns can be mentioned an Open Letter (*öpet bref*) to two particular parishes (*Högby and Bode*) on the Island of Öland which stated that they could also freight stone to staple towns (*siöstäder*) other than Kalmar because there the supply of stone had exceeded demand.³¹² In fact, the majority of these kinds of limited ordinances entailed exceptions to the norms of general trading orders. Finally, several ordinances were given on fairs.³¹³

During the seventeenth century, the crown also regulated the price levels of certain necessities. For instance, a *placat* of 1667 set a maximum price on imported salt from Spain. Karl XI regretted in the ordinance how he was forced, “with ill grace”, to resort to measures that could be seen as constraints on commerce. However, the “distress and need” that had encumbered the country compelled the crown to set the price level of Spanish salt at 18 thalers (copper) a barrel.³¹⁴ The price level of different domestic products was also occasionally regulated. For instance, in 1718 Karl XII set price levels for different grains. A barrel of bread wheat was to cost in good as well as in bad times no more than 24 thalers so that farmers would get decent compensation for their “with sweat and blood laden hard work”.³¹⁵ Export bans were also used as a means to secure the availability of necessary products. In 1662, the General Customs Officer (*general tull-förwaltaren*) Wilhelm Drakenhielm received an order to ban export of rye, barley, flour and malt in all customs stations because of the poor crop year in certain parts of Sweden.³¹⁶ In 1681, the export of oxen and horses from the Province of Skåne (Scania) was banned because the province suffered from a great “*manquement*” of those particular animals due to recent wars and past uninhibited export.³¹⁷

Inns and taverns also continued to be an object of royal police ordinances in the seventeenth century. As already mentioned above, the regu-

³¹⁰ Ibid. IV, 6–12.

³¹¹ Ibid. V, 142–153.

³¹² Ibid. II, 607–608.

³¹³ Ibid. I, 681–682; II, 65–69, 80, 106–109, 153–155, 292–293, 298–300, 341–342; III, 164–169.

³¹⁴ Ibid. III, 585.

³¹⁵ Ibid. VI, 554–555.

³¹⁶ Ibid. III, 103–104.

³¹⁷ Ibid. IV, 467.

lation of inns and taverns was intertwined with attempts to prevent illegal demands for transportation and hospitality. The majority of ordinances on inns and taverns contained orders to establish enough inns and taverns on public roads and towns all over the realm. Furthermore, these ordinances included provisions on valid rates for hiring horses, accommodation, foodstuff, meals, beer, and the like.³¹⁸

As mentioned above, ordinances on customs duties formed the biggest group within this particular sub-group, i.e., commerce and services. Roughly one third of all the ordinances in this sub-group concerned customs in one way or another. This can be explained by the fact that according to one of the leading principles of the economic policy of the seventeenth century, crown revenue should be based as much as possible on customs and levies. Continuous warfare abroad required liquid assets because hired troops could not be paid *in natura*. It was thus important for the crown to regulate both foreign and domestic trade in order to maximize collection of customs duties. In 1622, the so-called “small toll” (*lilla tullen*) was introduced in Sweden. This was a customs duty that had to be paid when products were carried from the countryside to town for sale. The customs duty for foreign trade was called “big sea toll” (*stora sjötullen*).³¹⁹ So, the arguments behind regulation of trade obtained new emphasis. For instance, the motive for preventing “illegal trade in the countryside” (*olaglig landzköp*) was no longer solely an attempt to secure availability of food supplies in towns. Instead, or rather in addition, the crown was interested in preventing trade in the countryside because it meant loss of toll revenues. Likewise, it was important that foreign ships unloaded their cargo in designated sea towns so that the big sea toll could rightly and efficiently be collected.

During the seventeenth century, several Toll and Excise Orders (*tull och accis ordningar*) were issued. These orders included detailed toll tariffs for various products that were imported in and exported from Sweden. As the titles of these ordinances suggest, they also included excise tariffs on different foreign alcoholic drinks.³²⁰ New big sea toll tariffs were issued frequently, often in consecutive years (e.g. 1612, 1613, 1614, 1615) either

³¹⁸ See e.g. *ibid. Commerce, Politie och Oeconomie... I*, 589–591, 641–644; *II*, 23–24, 41–46, 160–167, 369–373, 586–596, 658–669; *III*, 211–228; *VI*, 440–443.

³¹⁹ Behre, Larsson and Österberg, *Sveriges historia 1521–1809*, 77–78; see also Heckscher, *Sveriges ekonomiska historia... I:2*, 285–286, 657–667.

³²⁰ See von Stiernman, *Commerce, Politie och Oeconomie... I*, 568–583, 602–611, 621–635; *II*, 140–152, 188–202, 243–255, 355–368, 400–414, 503–516; *III*, 605–645.

because the crown needed more money (for warfare), which raised the tolls, or because the subjects had complained about existing toll levels or there was a shortage of particular products, which had the opposite effect. As noted, ordinances on the domestic small toll started to appear from 1622 onwards.³²¹ Between promulgation of these general toll tariffs, separate minor alterations were also made from time to time. In addition to the general toll and excise orders, individual ordinances were also given, for instance, on the excises on meat,³²² salt,³²³ beer,³²⁴ bread/baking ovens,³²⁵ and flour mills.³²⁶ Ordinances were not only given on toll and excise tariffs but also on customs formalities.³²⁷

Although ordinances on trading companies did not numerically form a large group, they nevertheless must be mentioned here because they bear witness to new foreign, mainly Dutch, influence on early modern Swedish economic thinking. In 1615, Gustav II Adolf granted privileges to a trading company (*kiöp-handels compagne*). All subjects, “regardless of their estate, worth, or status”, were encouraged to invest a minimum sum of one hundred thalers in the company. The company was promised a few vessels and certain exemptions from customs duties. The ordinance incorporated several provisions on the management and administration of the company.³²⁸ Four years later, in 1619, privileges of the same kind were granted to another trading company.³²⁹ The following year, yet another trading company was given privileges. However, as paragraph twenty-six of the ordinance stated this company was especially established to trade in copper.³³⁰ In 1625, Gustav II Adolf granted new privileges to a general trading company whose trade was directed to “*Asiam, Africam, Americam och Magellanicam*”, also known as the Swedish South Company (*Swenska söder compagniet*).³³¹ In 1641, the company received a further privilege to import tobacco to Sweden. Even though Queen Kristina saw tobacco as an “unnecessary imported good”, she agreed to “adapt herself to the progress

³²¹ See *ibid.* I, 809–834, 836–853, 886–900; II, 3–10, 121–136, 825–857; III, 416–488.

³²² See e.g. *ibid.* I, 857–859.

³²³ See e.g. *ibid.*, 981–982.

³²⁴ See e.g. *ibid.*, 868–870.

³²⁵ See e.g. *ibid.*, 863–864.

³²⁶ See e.g. *ibid.*, 951–955.

³²⁷ See e.g. *ibid.* II, 57–65, 255–265, 429–438; III, 646–657; IV, 337–339.

³²⁸ *Ibid.* I, 660–667 (quotation from p. 661); see also pp. 678–681.

³²⁹ *Ibid.*, 708–731.

³³⁰ *Ibid.*, 761–774; see also *ibid.* II, 53–54.

³³¹ *Ibid.* I, 910–922, 932–947. See also *ibid.* II, 615–620.

of the times and the desires of the people.”³³² Finally, a tar trading company (*tiäru handels compagniet*) received privileges in 1648. It received an exclusive right to buy tar and pitch to a certain price from peasants from both sides of the Gulf of Bothnia and to sell it in domestic sea towns and abroad.³³³ In the following year, another trading company for tar was established on the Island of Gotland.³³⁴

It has been argued that the significance of the majority of trading companies in Sweden remained relatively small. This applies especially to companies whose purpose was to practice intercontinental trade on the southern seas. Two exceptions existed, though: the copper trading company and the tar trading companies. The first-mentioned was foremost a means for Gustav II Adolf to promote the interests of the crown; after all, Sweden had a monopolistic status in the European copper markets almost throughout the seventeenth century.³³⁵ The crown became the biggest investor in the copper trading company; the company thus being *de facto* an export monopoly that played the crown's game. Instead, the tar trading companies more resembled their Dutch examples in that they were genuine companies established by multiple merchants and investors. However, the monopolistic status of the trading companies, especially the tar trading companies, caused much opposition among contemporaries. The general complaint was that the companies benefited only their owners and not the common good. People saw that the companies were exploiting tar producers, i.e., peasants, and the rest of the burghers wanted to get a piece of the profitable tar trade.³³⁶ In fact, a few conciliatory ordinances were given on these questions.³³⁷ The opponents of monopolistic trading companies finally won their battle in 1680 when Karl XI abolished all companies, allowing only a tobacco company and a tar company to operate until the end of their promised term.³³⁸

As already mentioned in the first chapter of this book, the ordinances on various trading companies serve as a good example of the modernizing aspects of police ordinances. Even though the seventeenth century companies may not yet perhaps be considered as modern limited companies

³³² Ibid. II, 305–307 (quotations from p. 305).

³³³ Ibid., 525–530.

³³⁴ Ibid., 608–612. See also ibid. III, 42–47, 950–955.

³³⁵ Heckscher, *Sveriges ekonomiska historia... I:2*, 450–455.

³³⁶ Ibid., 592–601.

³³⁷ von Stiernman, *Commerce, Politie och Oeconomia... III*, 47–50, 812–814.

³³⁸ Ibid. IV, 290–291.

as has been argued,³³⁹ the fact that anyone “regardless of his estate, worth, or status” could invest – at least in principle – in the companies bears witness to an individualistic conception of economic actors who are no longer solely defined by their birth or rank. Although the guild system was strengthened during the seventeenth century, simultaneously new economic institutions such as the trading companies were established through which the first seeds of economic liberalism were sowed in Sweden. Gradually, man becomes freed from a preordained order and a transformation from ‘*homo hierarchicus*’ to ‘*homo aequalis*’ takes place.³⁴⁰

In addition to ordinances on trading rights, price controls, export bans, customs duties and excises, inns and taverns, and trading companies, ordinances were also issued, for instance, on merchant guilds;³⁴¹ peddlers;³⁴² scales, weights, and measures;³⁴³ and stamp duties (*charta sigillata*).³⁴⁴

Monetary and Credit System

The empirical material of this study included a total of 103 ordinances on the monetary and credit system. These seventeenth-century ordinances regulated partly the same phenomena as during the previous century. For instance, the crown still wanted to prevent subjects from carrying Swedish coins abroad. Likewise, ordinances were still given in order to define the value of particular coins in relation to other coins. However, new regulatory themes also emerged, of which banking was the most important. But first, let us cast a quick glance at regulation of the coinage system.

In regard to coinage, the most important reform was carried out in 1625 when Gustav II Adolf decided to change copper as a new standard of currency in Sweden. According to the relevant ordinance, this reform was necessary because of constant lack of gold and silver coins in the country. Furthermore, copper was an obvious choice because “God had blessed the country with plenty of copper”.³⁴⁵ It has been claimed that the reason behind the coinage reform was really a desire to control the supply of copper in the market. As already mentioned, Sweden had a monopolistic status in the copper markets in the seventeenth century. The idea was that use of copper for domestic coins would reduce the supply of copper

³³⁹ Heckscher, *Sveriges ekonomiska historia*... I:2, 600–601.

³⁴⁰ Prodi, *Geschichte der Gerechtigkeit*, 117.

³⁴¹ von Stiernman, *Commerce, Politie och Oeconomia*... III, 83–88; VI, 91–103.

³⁴² Ibid. I, 874–886.

³⁴³ Ibid. II, 96–97, 489–490; III, 309–317, 391; V, 750–751.

³⁴⁴ Ibid. III, 6–17; IV, 692–701.

³⁴⁵ Ibid. I, 928–930 (quotation from p. 929).

in the markets thus keeping the prices of copper high and beneficial to the crown.³⁴⁶

Introduction of the copper currency standard also entailed problems. In practice, Sweden transferred to a double currency system because the old silver coins, i.e. *riksdaler*, still continued to be valid currency. The problem was that the new copper coins were valued according to their real copper content. This meant that when the general price of copper went down, the value of copper coins also sank in relation to silver coins and they lost part of their purchasing power. Respectively, when the price of copper went up, it did not pay to use the coins as means of payment because they were more valuable as copper. So, although the crown had initially confirmed the official exchange rates for copper coins in relation to other coins, in practice the rates were in constant flux.³⁴⁷ This also explains why several ordinances were given in the course of the century to define the value of copper coins in relation to silver thalers and other foreign coins.³⁴⁸ Furthermore, numerous ordinances were given in order to prevent Swedish copper coins from being transferred abroad.³⁴⁹

The source material also includes a dozen ordinances that attest to an episode that took place during Karl XII's reign. Due to the large-scale wars that Karl XII and his army took part in during the two first decades of the eighteenth century, the crown was in continuous need of money. In 1716, a new currency was introduced in order to increase the amount of money in the country. Masses of new copper coins were minted. However, these new coins contained only a fraction of copper in comparison to their nominal value. The crown promised to cash in the coins when the economic situation improved but only some 37 % of the coins were eventually cashed in. The system of "last resort coins" (*nödmynt*) resulted in inflation and was abolished in 1719.³⁵⁰

Along with introduction of the copper currency standard, establishing the first banks in Sweden was a major event in the seventeenth century.

³⁴⁶ Heckscher, *Sveriges ekonomiska historia*... I:2, 455–457, 604.

³⁴⁷ Ibid., 602–623.

³⁴⁸ See e.g. von Stiernman, *Commerce, Politie och Oeconomie*... I, 969; II, 13–15, 16–21, 114–115, 320–325, 349–355, 415–421, 701–708; III, 33, 185–191, 248–257, 339–346, 359–360, 389–391, 402–403; IV, 328–333; VI, 281–282, 297–298, 303, 412, 428–429, 445, 461–462, 498–499.

³⁴⁹ See e.g. ibid. I, 931–932; II, 11–12, 470–471, 481–482, 797–799, 821–823; III, 71–72; IV, 207, 1028–1029; VI, 500.

³⁵⁰ Heckscher, *Sveriges ekonomiska historia*... I:2, 634–635; von Stiernman, *Commerce, Politie och Oeconomie*... VI, 308–309, 342–343, 354–355, 361–362, 414–415, 444–445, 507–508, 553–554, 561, 565.

In 1656, Karl X Gustav granted privileges to a Loan Bank (*lånebänck*) and to a Bill of Exchange Bank (*wexel-bänck*).³⁵¹ Both banks were initiated by one Johan Palmstruch. From the beginning, the banks faced many kinds of difficulty of which the variety of different currencies was one. In practice, the bank had to have a reserve of four kinds of coins: gold ducats, *riksdaler*, Swedish silver thalers, and copper coins. The situation soon led to the introduction of bank notes with round figures – for the first time in Europe. But the note system also experienced problems; too many notes were issued, which again resulted in inflation. The bank also had difficulties in cashing in notes.³⁵² Due to “certain mistakes and abuses”, the privileges of Palmstruch’s bank were abolished in 1668 and new ones given to a bank established by the Estates of Sweden.³⁵³ Judging by a handful of ordinances in which assurance was given that subjects would not lose their deposits, it seems that subjects did not have full confidence in this bank either.³⁵⁴ For decades, the lending of the bank was reasonably insignificant for commercial life and the bank only came to play a bigger role in the 1720s.³⁵⁵

Finally, ordinances were also given on investments in trading companies,³⁵⁶ interest rates,³⁵⁷ payment of debts,³⁵⁸ redeeming and realisation of mortgages,³⁵⁹ and public bank auctions.³⁶⁰

Land Division, Public Construction, Real Estate, and Public Institutions

Seventy-one ordinances dealt with matters concerning land division, public construction, real estate, and public institutions. This is but 7 % of all the police matters of the second research period. This category is further divided into four sub-categories as indicated in Table 10.

³⁵¹ von Stiernman, *Commerce, Politie och Oeconomie*... II, 800–811.

³⁵² Heckscher, *Sveriges ekonomiska historia*... I:2, 623–630; von Stiernman, *Commerce, Politie och Oeconomie*... VI, 210–211, 338–339, 366–367, 500–501, 511.

³⁵³ von Stiernman, *Commerce, Politie och Oeconomie*... III, 659–665 (quotation from p. 660).

³⁵⁴ Ibid. IV, 133–138; V, 832–833; VI, 60–67, 175–178.

³⁵⁵ Heckscher, *Sveriges ekonomiska historia*... I:2, 630–635.

³⁵⁶ von Stiernman, *Commerce, Politie och Oeconomie*... I, 708–710, 958, 963–967.

³⁵⁷ Ibid. III, 393–396; IV, 1008–1010.

³⁵⁸ Ibid. I, 710–712; III, 176–178.

³⁵⁹ Ibid. III, 203–207; IV, 676–677; V, 748–750.

³⁶⁰ Ibid. V, 878–879.

Table 10: Matters of Land Division, Public Construction, Real Estate, and Public Institutions 1612–1718 (n=72)

5.1 Water Ways and Water Works	5.2 Roads, Transportation and Mail	5.3 Land and Real Estate	5.4 Public Construction and Infrastructure
32	23	6	11

Water Ways and Water Works

The increase in international sea trade during the seventeenth century is manifest in the intensification of regulation of shipping; thirty-two ordinances fell under this particular sub-category. In 1629, Gustav II Adolf granted privileges to a shipping company (*skiepps compagniet*). Privileges were given in return for sixteen vessels that the company had promised to the king. Privileges included, among other things, priority in freight contracts, exemption from taxes, the right to cut down trees, permission to keep booty, and so on.³⁶¹ The most important ordinance was the 1667 Maritime Law (*sjö-lag*). The ordinance mostly regulated questions such as shipping, hiring vessels, bottomry, and the like, i.e., questions of civil law and not of police. However, the first chapter of the Maritime Law included provisions, for instance, on service and pay on ships, shipping of grain, and others.³⁶²

Furthermore, in the course of the seventeenth century, kings issued ordinances including general exemptions from tolls to new ships built in Sweden or that rendered services to the crown.³⁶³ Ordinances were also issued on convoys and convoy tariffs in order to secure commercial shipping,³⁶⁴ on the obligatory use of Swedish captains,³⁶⁵ on boatswains,³⁶⁶ on the pilot system and pilots,³⁶⁷ on ship flags,³⁶⁸ on building canals,³⁶⁹

³⁶¹ Ibid. I, 973–976. See also ibid. II, 36–37, 575.

³⁶² Ibid. III, 520–527, 538–539.

³⁶³ Ibid. II, 467–469, 776–778; III, 29–32, 66–67.

³⁶⁴ Ibid. II, 720–749; III, 328–331, 944–947; IV, 17–20, 35–36; V, 96.

³⁶⁵ Ibid. III, 943–944; IV, 218–220.

³⁶⁶ Ibid. IV, 221.

³⁶⁷ Ibid. II, 99–100, 326–327, 334–336; IV, 75–77, 845–847; V, 593–622.

³⁶⁸ Ibid. III, 173–174.

³⁶⁹ Ibid. IV, 99, 220–221; VI, 329, 449–451.

on canal tolls,³⁷⁰ on bridge tolls,³⁷¹ on ferry tolls,³⁷² and on building lighthouses.³⁷³

Roads, Transportation and Mail

A total of twenty-three ordinances included provisions on roads, transportation and mail. As previously mentioned, ever since the Middle Ages the public transport system had been based on private persons' duty to provide horses (and accommodation) for people who were travelling on crown business. However, those who had no king's pass had to pay for horses according to fixed tariffs. This system was valid until the middle of the seventeenth century.³⁷⁴ Indeed, in 1649, the old transportation system was reformed so that from then on all travellers, including king's authorities, were obliged to pay for horses. The only exception was troops going to or coming back from the war. Instead of the system of "free transportation" (*frij skiutzning*), a new yearly levy of three silver thalers was introduced to cover the crown's costs.³⁷⁵ Afterwards, ordinances were still given in order to remind innkeepers of their duty to keep horses and travellers of their duty to pay for them.³⁷⁶

Unlike the first research period, the material included several ordinances on postal service that were issued during the seventeenth century. In 1636, Queen Kristina gave an Ordinance on Post Offices (*förordning om post-bådhen*) prescribing that an

oath-taken farmer or *postilion* should be appointed for every two or three miles, preferably a person that can read and write [...] and who, as soon as having heard the post-horn blowing, would immediately be ready to receive letters and to willingly deliver them further, regardless of what the weather might be, within a night and a day.³⁷⁷

In 1718, an extensive ordinance was issued on merging post offices and taverns. The aim of the ordinance was to advance the thriving of inns. The ordinance included provisions, for instance, on postal authorities, on delivery, on postages, and so on. Mail was divided into six categories:

³⁷⁰ Ibid. II, 342–344; IV, 21–23; V, 956–957.

³⁷¹ Ibid. II, 186–187; III, 62–63.

³⁷² Ibid. III, 657–658.

³⁷³ Ibid., 938–939; IV, 130–131.

³⁷⁴ Ibid. I, 645–651; II, 21–24, 41–46, 586–596.

³⁷⁵ Ibid. II, 597.

³⁷⁶ Ibid., 658–669; III, 211–228; 440–443.

³⁷⁷ Ibid., 46–50 (quotation from p. 47).

parcel mail, regular (letter) mail, express mail, horseback mail, sea mail, and extra mail. Most of these categories of mail were in fact carried by carriages or individual horses but the names referred to different times of delivery.³⁷⁸ Furthermore, individual ordinances were given on the mailing of valuable goods,³⁷⁹ on franking privileges,³⁸⁰ on postages,³⁸¹ on the protection of postal officials,³⁸² and on building postal vessels.³⁸³

Finally, one ordinance was given in order to remind governors of the duty of all inhabitants to keep the public roads in good condition.³⁸⁴ As noted above, this provision can already be found in the medieval Law of the Land.³⁸⁵

Land and Real Estate

Six ordinances dealt with matters concerning land and real estate. In 1649, Queen Kristina issued a *placat* on the building of houses on empty sites in Stockholm. The ordinance prescribed, among other things, that sites that were too small to be built on could be expropriated for a double price by the owner of a bigger neighbouring site.³⁸⁶ In the following year, another *placat* was given on empty sites in all Swedish towns. The Queen urged owners either to build on those sites or to sell them to anyone who was willing to erect a house on them.³⁸⁷ Ordinances were also given on landed property in the countryside. An ordinance from 1673 stated that division of "estates responsible for paying taxes" (*skattehemman*) was forbidden. The aim was to prevent farmers from selling part of their estates to members of the nobility, who were exempt from paying taxes.³⁸⁸ One ordinance was issued on sequestration of estates for the benefit of a creditor³⁸⁹ and another on "family pre-emption on landed property" (*bördz-rätten*).³⁹⁰

³⁷⁸ Ibid. VI, 463–483. In Swedish the categories were: "Paquet-Post", "ständig Post", "Ränn-Post", "Ryttare-Post", "Siö-Post" and "Extra-Post".

³⁷⁹ Ibid. V, 371–372.

³⁸⁰ Ibid., 932–954.

³⁸¹ Ibid., 378–381, 910–912.

³⁸² Ibid., 957–961.

³⁸³ Ibid. VI, 44–47, 545–546.

³⁸⁴ Ibid. III, 806–807.

³⁸⁵ See Schlyter, *Konung Christoffers Landslag*, B:3.

³⁸⁶ von Stiernman, *Commerce, Politie och Oeconomia*... II, pp. 581–582.

³⁸⁷ Ibid., pp. 640–641.

³⁸⁸ Schmedeman, *Justitiæ och Executions-Ährender*, 653–655; see also pp. 864–865.

³⁸⁹ Ibid., 859–860.

³⁹⁰ Ibid., 863–864.

Public Construction and Infrastructure

The empirical material contained eleven ordinances on matters of public construction and infrastructure. A resolution given to Stockholm in 1614 ordained that the city authorities were to take better care of the city walls.³⁹¹ In 1619, an extensive statute on the administration of towns was issued. The statute obliged the towns to take care of streets, cellars, buildings, town walls, towers, and other structures.³⁹² A *placat* from 1649 ordained further that in Stockholm all wooden shacks were to be torn down and solid houses built in their place.³⁹³ In 1658, Karl X Gustav gave instructions to an architect named Jean de la Vallée to draw plans and pictures for the betterment of the streets, embankments and parks of Stockholm.³⁹⁴ In 1684, Stockholm was promised a half a percent of all incoming goods and a quarter of a percent of all outgoing goods in order to be able to take care of the maintenance of all public buildings.³⁹⁵

Fire safety was also an object of regulation in ordinances. For instance, in 1670, a royal letter was sent to the Town Administrative Court (*magistrat*) of Stockholm saying that the erection of tall wooden houses was forbidden for reasons of fire safety.³⁹⁶ Five years later, in 1675, Karl XI gave his confirmation to an extensive Fire Order (*brand-ordning*) drafted by the authorities of Stockholm. According to the order, the city was divided into four quarters; quarters, in turn, into two “fire-master districts” (*brandmästerskap*); and finally these districts into several “section leader districts” (*rotmästerskap*). Every fireplace in town was to be inspected a couple of times a year. The order included detailed instructions on how to act in case of fire and how to ensure that the fire did not smoulder once it was put out.³⁹⁷ A similar kind of Fire Order was also given for the town of Jönköping in 1692.³⁹⁸ Furthermore, one ordinance dealt with putting out forest fires.³⁹⁹

Finally, a couple of ordinances included provisions on sanitation in Stockholm. A *placat* from 1649 was issued on construction of pavements and disposal of waste. The ordinance stated that it was house and site

³⁹¹ von Stiernman, *Commerce, Politie och Oeconomie* . . . I, 613.

³⁹² *Ibid.*, 743.

³⁹³ *Ibid.* II, 581.

³⁹⁴ *Ibid.*, 880–882.

³⁹⁵ *Ibid.* IV, 618–619.

³⁹⁶ *Ibid.* III, 810–811.

³⁹⁷ *Ibid.* IV, 102–130.

³⁹⁸ *Ibid.* V, 353–367.

³⁹⁹ Schmedeman, *Justitiæ och Executions-Ährender*, 1284–1288.

owners' responsibility to pave the streets with stones. Likewise, owners were also responsible for disposal of waste. Streets were to be cleaned weekly so that filth could not spread stink, bad air and disease. If property owners refused to comply, the city would take care of waste disposal and charge the owners.⁴⁰⁰

* * *

So, we have reached the end of describing the plurality of the various police matters that Swedish royal ordinances encompassed during the second research period of 1612–1718. Next, I shall discuss how regulation was justified in the police ordinances themselves.

JUSTIFICATION OF ORDINANCES

As stated above, police ordinances of the first research period (1523–1611) embodied two types of ideological arguments, i.e., political and religious. As was also mentioned, in the ordinances these arguments were closely linked to each other but they were nevertheless scrutinized separately for analytical reasons. The same will also be done here. Both themes of argumentation also unfold from the police ordinances of the second research period (1612–1718). However, two important changes can be discerned. Firstly, the religious argumentation changed its tone. Instead of talking about 'the wrath of God', the ordinances now talked about more how God had blessed the country with natural resources. In other words, positive religious argumentation partly replaced negative religious argumentation. Secondly, and more importantly, a new theme of argumentation emerges from the material, that of economic argumentation. Both of these changes relate to the same societal change: the expansion of economic life and pre-industrial production in seventeenth-century Sweden.

Political Arguments: 'Benefit of the Realm and its Inhabitants' and 'Good Order'

The phrase, 'for the benefit of the realm and its inhabitants', also kept on featuring in the seventeenth-century argumentation of police ordinances. For instance, a *placat* for the manufactories of the Town of Eskilstuna

⁴⁰⁰ von Stiernman, *Commerce, Politie och Oeconomie...II*, 583–584. See also Schmedeman, *Justitie och Executions-Ährender*, 224.

stated that privileges for various manufactories were given because of the “benefit that thereby lands with the Realm and its Inhabitants”.⁴⁰¹ Examples of this kind are numerous in the material. The benefit of the realm and the well-being of inhabitants were used as arguments when customs duties were imposed on various products,⁴⁰² when sea towns were granted sailing privileges,⁴⁰³ when trade with foreigners was regulated,⁴⁰⁴ when the value of coins was determined,⁴⁰⁵ when prices for tar and pitch were fixed,⁴⁰⁶ when beggary and dole were controlled,⁴⁰⁷ when the auction of unredeemed pawns by banks was regulated,⁴⁰⁸ and so on.

As these examples already indicate, commerce and trade were considered to be the main sources of the success of the Swedish realm and its inhabitants. The connection between commerce and the well-being of the inhabitants was often made explicit in ordinances. An ordinance on the free fairs in the towns of Stockholm and Åbo (Turku) stated that

the well-being and prosperity of our Realm and Subjects consists not to a lesser degree of extensive and well organized trade and business.⁴⁰⁹

Commerce was also sometimes argued to constitute a precondition for the “strength of the realm” (*Rijkzens styrckie*), especially when granting privileges to trading companies.⁴¹⁰ These examples show how economic arguments started to mix with political reasoning during the seventeenth century.

The concepts of ‘common good’ and ‘public interest’ also appeared occasionally in ordinances. For instance, in 1654, a privilege was given to the *Americanska compagniet* to import tobacco to Sweden. The ordinance reported how Karl X Gustav had spent time to figure out the best possible way to organize the tobacco trade so that it would benefit the “public and common good” (*publique och allgemeenen bästa*).⁴¹¹ A couple of ordi-

⁴⁰¹ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 50. “den nytta, som Rijket och dess Inwånare deraf tilwäxer”.

⁴⁰² Ibid. I, 576.

⁴⁰³ Ibid., 686

⁴⁰⁴ Ibid., 690.

⁴⁰⁵ Ibid. II, 29.

⁴⁰⁶ Ibid. III, 42.

⁴⁰⁷ Ibid., 155.

⁴⁰⁸ Ibid., 203.

⁴⁰⁹ Ibid. II, 106. “Wårt Rijkets och Undersåthares wälfstånd och förkåfning icke ringa deels består på mycken och wälfattad handel och wandel.” See also e.g. ibid. II, 110, 532, 575, 615; IV, 880.

⁴¹⁰ Ibid. I, 661, 761.

⁴¹¹ Ibid. II, 784.

nances on manufacturing or mining privileges from the 1670s stated how these privileges promoted “common benefit” (*almänna nyttan*)⁴¹² and “common good” (*gemena bästa, allmänna bästa*).⁴¹³

A concept that is of special interest here is, of course, ‘police’. As already mentioned, the concept of police emerged in the Swedish political vocabulary in the middle of the sixteenth century. The term was used in the police ordinances of the first research period where it stood more or less as a synonym for ‘order’; either order in the whole realm or order within different trades.⁴¹⁴ Police ordinances of the second research period brought a partial change in this regard since the concept of police started to have more precise and limited meanings. The concept was now also used especially in reference to order in towns and to town administration. The first signs of this change can be found in the already mentioned Statute on the Administration and Emergence of Towns in the Realm of 1619. The first section of the statute ordained that the “Law of Sweden is a *Foundation* to the *Police* and Order of Our Towns” and it should therefore be carefully followed.⁴¹⁵ Furthermore, section three pronounced that burgomasters and town councils were responsible for “maintaining order and *police* for the benefit, well-being and prosperity of the towns”.⁴¹⁶ The concept of police referred here to the inner order of towns although it was still also given other meanings in other ordinances.⁴¹⁷

Another evidence of the conceptual change can be found in the 1672 Ordinance on the Administration of the Town of Stockholm. This time, the concept of police was mainly used in reference to one of the administrative branches of the town administration. As mentioned above, the town administration was divided into four branches: justice, police, commerce and trades. Each branch was led by a burgomaster. The task of

⁴¹² Ibid. III, 875.

⁴¹³ Ibid., 877, 878, 880; IV, 27, 329; Schmedeman, *Justitie och Executions-Ähren*, 589.

⁴¹⁴ See above p. 74.

⁴¹⁵ von Stiernman, *Commerce, Politie och Oeconomie... I*, 732. “*Sweriges Lag är ett Fundament til Wäre Städens Politie och Ordning*”.

⁴¹⁶ Ibid., 733. “*Borgmestare och Rådz Embete skal enkanterligen häruti bestå, at the sigh medh högsta macht beslija och winläggia om Stadzens gagn, wälfärd och nytta samt till-wäxt, at Ordning och Politie må blifwa wid macht hållen.*” See also ibid. II, 442, 577, 621; III, 148–149.

⁴¹⁷ The term *politie* was still used also with reference to a more general “good order and police” (*god ordning och politie*) within the realm, see e.g. von Stiernman, *Commerce, Politie och Oeconomie... II*, 629. The term was also used as a synonym for polity or state. For instance, a letter to the Town Administrative Court of Stockholm (ibid. III, 799) stated that “as in other well-organised polities such scoundrels are punished with hard labour” (*såsom i andre wälbestälte Politier sådane skalkar straffas medh åthskilligt arbete*).

the Police Burgomaster (*politie-borgmästaren*) was to give orders on police matters together with other “police authorities” (*politie-wäsendet*). The scope of police matters was extensive. According to the ordinance, the police burgomaster was in charge of matters that concerned mischief; blasphemy; excess in festivities, weddings, christenings, funerals, clothing and morning gifts; drunkenness and gambling; beggary; fire safety; poor relief; schools; churches; hospitals; guardianship; archives; housing; the nightwatch; and “other matters that belong to the police”. The Police Burgomaster had three members of the town council as “colleagues” (*colleganter*) who acted under his supervision and who were in charge of different sectors of police. The first was in charge of execution of “police ordinances” (*politie-ordningar*) and supervision of police officials. The second supervised poor relief, schools, churches, and hospitals. Finally, the third colleague was responsible for the Chamber of Guardianship.⁴¹⁸ In 1699, a royal resolution was given in which the jurisdiction of the Town Administrative Court of Stockholm was confirmed. The resolution stated that the court was in charge of overseeing that all ordinances given in order to “establish a good *police* in the town” were complied with.⁴¹⁹

What is of interest here is that in the 1672 ordinance commerce and trades were left outside the scope of police; they were both treated as separate administrative branches and they both had their own burgomasters. Even though police as a concept was still also used to cover commerce and trades late into the eighteenth and even the nineteenth century,⁴²⁰ the 1672 ordinance marks a starting point of a development whose outcome can be observed today, namely, that the concept of police refers primarily to authorities responsible for maintaining public order and security. The development in Sweden is congruent with the development in German territorial states and France. For instance, from the middle of the eighteenth century onwards, in German police science (*Policeywissenschaft*) a ‘differentiation of disciplines’ (*Differenzierung des Faches*) began to take place since economy started to be treated as a separate discipline. According to Michael Stolleis, this development reflected the more general separation of ‘state’ (*Staat*) and ‘civil society’ (*Gesellschaft*) that started

⁴¹⁸ Ibid. III, 1053–1055.

⁴¹⁹ Ibid. V, 763. “*en god Polities inrättande uti Staden*”.

⁴²⁰ See e.g. Frohnert, “Policeybegriff und Policeygesetzgebung,” 550–560.

around the 1750s in German territories.⁴²¹ It was also typical in Germany that from the beginning of the eighteenth century the term 'police' (*Policey*) started to take on 'institutionalized' forms especially through the establishment of new authorities responsible for good societal order.⁴²² In France, too, from the latter part of the seventeenth century onwards, the concept of police began gradually to gain more precise formulations in 'police literature' even though it did not lose its bonds to the wider notion of previous centuries. Rather than being a synonym for loose and often undefined 'good government', the concept was now used increasingly to signify the means and instruments through which such a government was thought to be achieved.⁴²³

Another concept that deserves our attention here is the concept of 'state' or 'status' (Swedish *staat*). As already mentioned above, the concept and doctrine of *ratio status* emerged in European political vocabulary and theory from the late Middle Ages onwards. The generator of this development was the political literature on Italian city states. By the seventeenth century, when the concept had already started to wither away in the Apennine peninsula, it was introduced in German and French political theory. It was actually in France that the concept was for the first time put in a wider European context. The strength and prosperity of a single state was no longer thought to be merely an internal matter. Instead, the status of a state was to a large degree dependent on the status of other (nation) states.⁴²⁴

The basic idea of the doctrine of reason of state was to maintain and augment the political and economic power of a state. This idea also manifests itself in seventeenth-century Swedish police ordinances, although only sporadically. As indicated above, it was sometimes argued in ordinances that commerce constituted a precondition for the "strength of the realm" (*Rijkzens styrckie*).⁴²⁵ However, the concept of state appeared in ordinances only very seldom. A Customs Order from 1637 stated that

⁴²¹ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 377–379; see also Maier, *Staats- und Verwaltungslehre*, 177–190.

⁴²² Schulze, *Policey und Gesetzgebungslehre*, 16.

⁴²³ Iseli, "Bonne Police", 23–46, 67.

⁴²⁴ Viroli, *From Politics to Reason of State*; Meinecke, *Machiavellism*, 117–195.

⁴²⁵ von Stiernman, *Commerce, Politie och Oeconomie... I*, 661, 761.

We Christina [...] let it be known that since our and the realm's status, as well as the nature and change of *Commerce*, seems to require and necessitate that the old customs order [...] be revised.⁴²⁶

Here, the concept of state referred to the status of both the ruler as well as the realm. No theoretical difference is made between the older 'Machiavellian' (ruler-based) notion and the later 'republican' (commonwealth-based) notion of *ratio status*. In fact, this ordinance was one of the few ordinances in the material where the Swedish term "*staat*" was used in the meaning of status as condition.⁴²⁷ Otherwise, the concept was used to refer to state as a polity and it predominantly appeared in Latin form. For instance, in 1658, an ordinance was given in order to ban all correspondence and trade with Denmark because of the "security of Our own Estate" (*för Wår egen Estats säkerheet*).⁴²⁸ A *Placat* from 1662 ordained that all governors were to be satisfied with the travel money "issued by the state" (*som dem på Staten tilordnes*) and not to demand free accommodation from innkeepers.⁴²⁹

It can thus be concluded that the concept of state or *status* was almost non-existent in the empirical material. However, the basic idea about the political and economic necessity of strengthening the Swedish state is discernible in the ordinances. It has been argued elsewhere that during Queen Kristina's reign (1632–1654) Machiavellian ideas and the doctrine of *ratio status* gained some ground in the Swedish political literature, although in a moderated form. A "modern and more cynical" political theory struck root in Sweden.⁴³⁰ Indeed, even though the concept of *ratio status* did not appear in police ordinances, the idea of maintaining and augmenting state power became clear in the ordinances. Not only was it important to maintain and augment the strength of the Swedish state through incorporation of new provinces and through promotion of industries and commerce. From the point of view of *ratio status* it was equally important that internal societal order prevailed in the realm. Order was no longer striven

⁴²⁶ Ibid. II, 81. "Wlj Christina [...] Göre witterligit, at effter såsom wår och Rijkzens Staat, så och Commerciernes Natur och förändring hafwer synts nödtorffteligen fordra och kräfia, at then gamble Tull-ordningen [...] måtte blifwa öfweersedd."

⁴²⁷ On a couple of occasions the term 'state' appeared in the form of 'military state' (*Krijgz-Staten*). See *ibid.* I, 985; II, 2.

⁴²⁸ Ibid. II, 886.

⁴²⁹ Ibid. III, 128. See also pp. 323, 873. Also the Latin term "*res publica*" appeared in ordinances a few times. It was used as a synonym for state. See e.g. *ibid.* I, 758, 938, 942; II, 321, 615.

⁴³⁰ Lindroth, *Svensk lärdomshistoria*, 360–361.

for merely for the sake of moral-religious order itself, but rather order for the sake of the power of the state. A good example of this thinking is the *placat* of 1663 already mentioned above which stated “what prosperity the temporal government can gain thereof that peace and unity are maintained and uphold within religion.”⁴³¹ Indeed, according to the contemporary political doctrine, the advantage of having one common religion was “a self-evident requirement of the good *raison d'état*.”⁴³²

Religious Arguments: 'God's Blessing'

Religious argumentation also continued to play a role in seventeenth-century police ordinances. ‘The wrath of God’ was still used as a deterrent argument in ordinances.⁴³³ For instance, an ordinance of 1664 stated that every kind of excess in the nobility's clothing would not only redound to their personal ruin but would also bring the land “God the almighty's severe vengeance, retaliation and punishment”.⁴³⁴ People were also accused of living in sin and causing evil in the world as an ordinance on infanticide shows.

We Carl Gustaff by the Grace of God etc. let it be known that although Sins in general, from one day to another, keep on increasing in these evil and extreme times of the world; So do We notice with same certainty although displeasure how in particular in Our Royal Fatherland infanticide, more than before, occurs and increases.⁴³⁵

However, in comparison to sixteenth-century ordinances religious argumentation received a new, more positive tone in seventeenth-century ordinances. In particular, ordinances that regulated use of natural resources included references to God's benevolence. A *placat* from 1615 proclaimed how

⁴³¹ von Stiernman, *Religion*, 87.

⁴³² Meinecke, *Machiavellism*, 125. See also Montgomery, *Sveriges kyrkohistoria*, 144.

⁴³³ The argument that God is punishing the people of Sweden for their sins was also the central argument in seventeenth-century war propaganda. It was used to explain the outbreak of wars as well as to legitimize the sacrifices (higher taxes and recruitment) that were needed from the peasantry in order to fight the enemy and win wars. See Forssberg, *Att hålla folket på gott humör*, 306.

⁴³⁴ Ibid. III, 228. “Guds dens Högstes stränge Wrede, hämbd och Straff.” See also ibid. I, 706; III, 57, 273.

⁴³⁵ Schmedeman, *Justitie och Executions-Ähren*, 299, 877. “WIj Carl Gustaff med Gudz Nåde etc. Giöre witterligit, at ändoch Synden i gemehn, dagh från dagh, uti denne wär[l] dennes onde och ytterste tijdh wäxer och tiltager; Så förnimme Wij doch lijka wijst fast ogiärna, huru i synnerhet i Wärt K. Fädernesland, Barnemord, mehra än för thetta, sig ypper och föröker.”

God Almighty has blessed Our beloved Fatherland with strong and good barley and seeds that are not only comparable with grain from foreign countries but in general exceed it by their quality.⁴³⁶

Despite the good quality of barley, the quality of Swedish beer was poorer than the quality of foreign beer. Therefore King Gustav II Adolf saw fit to grant privileges to anyone who was willing and able to brew good beer in Stockholm. In turn, a *patent* from 1640 stated how an abundant vein of silver had been found in Lapland “with the merciful blessing of God”. In order to “honour God’s holy name”, Queen Kristina ordered churches to be built in Lapland so that people could be “ushered to Christian virtues”.⁴³⁷ In addition to grain and metals, God was thanked for blessing Sweden with tar,⁴³⁸ pine woods,⁴³⁹ herring,⁴⁴⁰ and health springs.⁴⁴¹

However, in the ordinances God was not only praised for the blessings with which He had endowed the country. More importantly, God’s blessings came with a duty to put them to use for the benefit of the realm and its inhabitants. This was a duty that fell especially upon the ruler. A *mandat* from 1649 is telling in this respect.

We Christina [...], let it be known that since God the Almighty has mercifully blessed Our Realm, more than others, with an abundance of various *Metal* and *Mineral* Mountains whose cultivation brings the Realm both honour and benefit, and brings the Government through revenues strength and advantage which are not exiguous, therefore, and because of the benefit that comes to the Crown and that is counted with good reasons among the *Regalia filci* which ought to be conserved, and to prevent and avert all that is harmful to Mining and in the long run could come to its ruin, We and the Crown have been vested with powers that are not insignificant.⁴⁴²

⁴³⁶ von Stiernman, *Commerce, Politie och Oeconomie... I*, p. 654. “GUD Alzmächtig hafwer Wårt käre Fädernesland med sådana korn och kiärna begåfwat, som uti Dygd och Kraft fremmande Lands-Säd, icke allenast jämgod är, utan och gemenligen uti qualitet öfvergåår.” See also *ibid.* VI, 567.

⁴³⁷ *Ibid.* II, 297–298. “förmedelst GUDz nådige wälsignelse [...] GUDz Helga namn til ähra [...] wenias til Christelige dygder”. See also Schmedeman, *Justitiæ och Executions-Åhrender*, 858–859.

⁴³⁸ von Stiernman, *Commerce, Politie och Oeconomie... II*, 608.

⁴³⁹ *Ibid.*, 776–777; Schmedeman, *Justitiæ och Executions-Åhrender*, 247.

⁴⁴⁰ von Stiernman, *Commerce, Politie och Oeconomie... III*, 384.

⁴⁴¹ *Ibid.* IV, 456.

⁴⁴² *Ibid.* II, 576. “Wlj Christina [...] Giöre witterligit, at effter som GUDh then högste hafwer nådelighen wälsignadt Wårt Rijke fram för andre landh medh åthskillige Metal och Mineral Bergh uthi stoor ymnogheet, uthaff hwilkes Cultur Rijket både heder och gagn, och Regementet aff thess affgeld, icke ringa styrckio och understödh niuter, therföre och Cronones theruthi verserande intresse icke uthan skähl räknas ibland the förembligaste Regalia filci,

In order to fulfill their duty as rulers, the monarchs were vested with powers “that were not insignificant”. The rulers operated with a mandate that was given them by none other than God himself. As in the previous century, this view was also confirmed in seventeenth-century ordinances. An ordinance on duels from 1682 tells the same story even more explicitly.

We Carl &c. let it be known that as the Almighty God has seen it good to appoint Us after Our forefathers to such a high rank on earth to govern over Land and People, and to strengthen and steer Our Realm with Royal Law; Therefore We remind Ourselves in Our Royal Office to govern in such a way that God’s will and justice shall be followed, and all violence, spontaneous retaliation and bloodshed prevented.⁴⁴³

Furthermore, a *placat* from 1665 forbade the distribution and printing of satires and lampoons in which foreign princes were mocked or ridiculed because these writings insulted the very “respect and excellence [...] that God himself had endowed them with”.⁴⁴⁴ In 1673, Karl XI issued an ordinance on the resettlement of Lapland. The King stated how previous Swedish kings had tried to promote resettlement, and so it also fell upon “his royal office” (*vårt konungzlige embete*) to do the same.⁴⁴⁵ It was the responsibility of the ruler to see that people lived according to God’s will and secular laws.

Since Our Royal high Office demands especially that We see that Our subjects adhere to the Law of the Land and Justice and that We fight against injustice,⁴⁴⁶

hwilke til at conservera, och alt thet, som Berghverket är til meen, och synes i lengden willia draga medh sigh thess skadha och undergång, til at affwäria och förebyggia, Oss och Cronan icke ringa macht opåligger.”

⁴⁴³ Schmedeman, *Justitiæ och Executions-Ähreder*, 764. “Wlj Carl &c. Giörom witterligit, at såsom thet hafwer behagat then alzmächtige Guden upsätta Oss efter Wäre Förfäder til thet höga wärde på jorden, at råda öfwer Land och Folck, så at Wij äge Wårt Rike med Kongl. Rätt styrckia och styra; Så påminne Wij Oss billigt ther jämte Wårt Kongl. Embete wara således regera, at Gudz wilja och rättwisa ther igenom må efterkommas, all wåld, egenwillig hämd och blodz utgiutelse förtagas.”

⁴⁴⁴ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 323. “den respect och Högheet [...] hwilken Gudh sielff dem tilägnar”.

⁴⁴⁵ Ibid. IV, 33.

⁴⁴⁶ Schmedeman, *Justitiæ och Executions-Ähreder*, 134. “Så aldenstund Wårt Konungzlige höge Embete i synnerhet kräfwet, att Wij skole hålla wäre Undersäter widh Sweriges Lagh och all Rättwijso och Olagh nedertryckia.”

Legal Arguments: Other Legal Sources and Foreign Law

As already indicated above, explicit references to other legal sources were scarce in sixteenth-century Swedish police ordinances. The situation remained the same in seventeenth-century ordinances. Only a handful of ordinances included explicit references to natural law, divine law, Roman law, canon law, or foreign law. In 1666, for instance, Karl XI issued a *placat* on interests making a general reference to divine law as well as to the law of other nations.

As We now very well notice, what harm and damaging *consequences* in the long run would be introduced if usury was allowed and if it would be left to each and everyone's own discretion to raise *interests* according to their own unrestricted and unlawful desires; We also thereby remind [you] how it is not only against God's law but also against good Statutes and *Constitutions* that have been confirmed by the Governments of all Lawful *Potentates* and Rulers.⁴⁴⁷

The Decalogue was also invoked, as the 1665 *Placat och Stadga* on Blasphemy and Keeping of the Sabbath shows:

We Carl &c. let it be known that although each and every man should spontaneously follow and to set as his guideline each and every Commandment of God the Almighty, and always make the effort to live according to them whether they be announced in the first or the second Table [of the Decalogue] and regardless they be pronounced in a wordly law or not; Nevertheless, We notice that in relation to the aforementioned first Table, especially in regard to blasphemy and keeping of the Sabbath, the written law of Sweden does not impose any detailed and appropriate punishments or fines for such deeds.⁴⁴⁸

⁴⁴⁷ von Stiernman, *Commerce, Politie och Oeconomie* . . . III, 393. "Såsom Wij nu väl befinne, hwad förfång och skadeliga consequentier det i längden medh sigh draga wil, der således ockrande skulle rum gifwas, och hwar och en fritt lemnas, at öka och förhöja Interresserne efter sin egen oomskränkte och olaglige begärlighet; Wij också derhos ihugkomme, huru icke allenast Guds Lagh sådant förbjuder, uthan ock derjempte alle Loflige Potentater och Regenter, som deras Regementen på gode Stadgar och Constitutioner hafwa grundfästat."

⁴⁴⁸ Schmedeman, *Justitiæ och Executions-Åhrender*, 441–442. "Wij Carl &c. Giöre witterligt, dhet ändoch hwar och en borde wara sielfmanter, at ställa, så dhet ene Gudz dhen Högstes Bod sig till rättelse och efterfölgd, som dhet andra, och altijd winläggia sig, at wara dem samtliga lydig och hörsam, dhe ware sig i dhen förste eller andra Taflan begrepne, anten någon werdzlig Lag och Stadga dher på kan wara sätt eller icke; Så befinne wij likkwäl, anbelangande förbemelte förste Tafla, at såsom i synnerhet öfwer Swordomar så ock Sabbatzbrott, uthi Sweriges beskrefne Lag icke något uthförligit wijte och straff med behörlige omständier och böter är publicerat.

In addition to God's law, natural law was also invoked. For instance, at the end of the century, in 1697, Karl XII issued a *placat* in which he stated that

We Carl [...] let it be known that We, time and again, with greatest of discontent have been forced to observe how, in one region and another, when seafarers are struck by a shipwreck and their ill-starred vessels have drifted ashore, the people living in the countryside not only do not run to the unfortunate ones' help and comfort as natural law and Our repeated Ordinances commands them to do but instead, with an unchristian and even among heathens unprecedented cruelty, often inflict them even greater misfortunes than the danger they have escaped by burning down their vessels and robbing the castaways of their lives and goods that the distress did not manage to deprive them.⁴⁴⁹

Why is it, then, that references to Roman and canon law were virtually absent in seventeenth-century police ordinances? This question needs to be answered, especially because the reception of Roman law and natural law thinking clearly strengthened in Swedish jurisprudential literature during the seventeenth century. The period from the late 1630s to the 1670s has even been labeled as the heyday of Swedish jurisprudential and juridical literature. During this period works on the institutions of Roman law, natural law, and legal history were published – both in Latin and in Swedish.⁴⁵⁰ The reception of Roman law is also visible in seventeenth-century proceedings at Swedish appellate court level (*Svea hovrätt*). Roman law, i.e., *Corpus Iuris Civilis*, was used as a supplementary legal source not only in the fields of law of obligations, family law, and law of inheritance but also within criminal and procedural law.⁴⁵¹ In the process the concepts of Roman law did not always necessarily remain the same. Instead, concepts were often given new meanings in order to suit the needs of contemporary Swedish society. Concepts of Roman law were

⁴⁴⁹ von Stiernman, *Commerce, Politie och Oeconomie*... V, 678. "Wij Carl [...] Giöre witerligit, att, såsom Wij, tid efter annan, med största missnöje hafwe måst förnimma, hurusom på en och annan ort, då någre Siöfarande komma att lida Skeppsbrått och med deras förolyckade Farkostar blifwa drefne inn uppå stranderne, de å Landet boende icke allenast inet bispringa slike olycklige med den hjelp och sådan ömhet, som den naturlige Lagen kräfwer samt Wåre, tid efter annan, utgångne Förordningar befalla, utan, i det stället, af en ochristelig och ibland Hedningar ohörd grymhet ofta tilskynda dem fast större olyckor, än den faran, de hafwa undsluppit, förbrännandes Farkostarne samt beröfwandes de skeppsbrutne deras lif och det gods, som siönöden är undkommit."

⁴⁵⁰ Björne, *Patrioter och Institutionister*, 22–51; Stig Jägerskiöld, *Studier rörande receptionen av främmande rätt i Sverige under den yngre landslagens tid* (Uppsala & Stockholm & Göteborg: Almqvist & Wiksell, 1963), 37–45.

⁴⁵¹ Jägerskiöld, *Studier*, 90–98, 128–153.

also used as tools of interpretation of domestic law. This was the case, for instance, with concepts relating to testamentary law.⁴⁵²

However, towards the end of the seventeenth century, references to Roman law in Swedish appellate court practice became scarce and the courts began to apply more and more Swedish positive law in their argumentation. Jägerskiöld has characterized this development as a gradual turn towards “national legal positivism” – a development that was a common European phenomenon. The favouring of domestic law coincided with the emergence of political absolutism in Sweden (1680–1718).⁴⁵³ Even though there is evidence of reception of Roman law in the legal praxis of the Svea appellate court, it has been argued that all in all the use of Roman law and foreign law had little significance in seventeenth-century Sweden. There are two reasons for this. First, there were not really competing legal systems – i.e., feudal law, town law, or canon law – in early modern Sweden. This prepared the way for strong royal statutory law, i.e., police ordinances. Secondly, the number of university-trained legal professionals remained small throughout the early modern period. Administration of justice stayed in the hands of laymen especially in district courts.⁴⁵⁴

Why does this type of reception not show in seventeenth-century police ordinances? The answer lies in the nature of police ordinances. A significant part of all seventeenth-century police ordinances mostly dealt with matters which were reasonably irrelevant in regard to the doctrines of Roman law. For instance, coinage, manufacturing privileges, guild rules, customs duties, and so on were all issues that could be regulated without resorting to jurisprudence. After all, Roman law was mainly focused on *personae*, *res* and *actions*, i.e., matters of civil, criminal, and procedural law. It has been argued that early modern ‘police law’ (*Policeyrecht*) was not and could not have been confined to the *ratio scripta* of Roman law. Police ordinances were flexible legal instruments through which actual societal problems were solved in a dynamic fashion. In early modern Germany police ordinances did include provisions on classical private law

⁴⁵² Trolle Önnersfors, *Justitia et Prudentia*, 294–295.

⁴⁵³ Jägerskiöld, *Studier*, 101–127, 211–214.

⁴⁵⁴ Heikki Pihlajamäki, “‘Stick to the Swedish law’: The Use of Foreign Law in Early Modern Sweden and Nineteenth-Century Finland,” in *Ratio decidendi: Guiding Principles of Judicial Decisions. Vol. 2: ‘Foreign’ Law*, ed. Serge Dauchy, W. Hamilton Bryson, and Matthew C. Mirow (Berlin: Duncker & Humblot, 2010), 170–179.

issues but these provisions often departed from the doctrines of *ius commune* and actively developed private law in a new direction.⁴⁵⁵

More important than Roman and canon law was foreign law on, for instance, trade companies and banking. Indeed, Swedish police ordinances on trading companies and banks were influenced by Dutch (Amsterdam), English, French and German (Hamburg) law.⁴⁵⁶ However, there are no comprehensive studies on foreign influence on Swedish early modern police ordinances in general. The question about the origin of individual provisions of Swedish early modern police ordinances also falls outside the scope of this study.⁴⁵⁷

Economic Arguments: 'Flux of Commerce'

Compared to the police ordinances of the previous century, the most notable change that took place in the seventeenth century was the breakthrough of economic argumentation. As mentioned above, this change is no coincidence considering the simultaneous expansion of commerce, trades, mining and manufacturing in Sweden. The advancement of economic life is not only noticeable in the increase in the number of ordinances on economy and trades but can also clearly be seen in the argumentation of seventeenth-century police ordinances. In contemporary political thought commerce began to be understood as the life-blood for the prosperity and strength of the state. As already mentioned, many times economic arguments appeared together with political arguments, i.e., arguments relating to 'common good', 'benefit of the realm and its inhabitants', 'strength of the realm', and the like. It has also become apparent that economic argumentation was strongly intertwined with religious-moral argumentation.

⁴⁵⁵ Gustaf Klemens Schmelzeisen, *Polizeiordnungen und Privatrecht*, in *Forschungen zur neueren Privatrechtsgeschichte, Band 3*, ed. Franz Beyerle and Wolfgang Kunkel (Münster – Köln: Böhlau-Verlag, 1955), 9–20. Schmelzeisen argues that in order to fully understand the history of private law one must also study early modern police ordinances.

⁴⁵⁶ Erik Thomson, "Swedish Variations on Dutch Commercial Institutions 1605–1655," *Scandinavian Studies* 77 (2005): 331–346; Heckscher, *Sveriges ekonomiska historia... I:2*, 592–601, 627.

⁴⁵⁷ The question about foreign influence on Swedish medieval provincial law codes and on the Law of the Land has been studied more extensively elsewhere. At least two competing accounts seem to exist. On this debate, see Elsa Sjöholm, *Sveriges medeltidslagar: Europeisk rättstradition i politisk omvandling* (Lund: Institutet för rätthistorisk forskning grundat av Gustav och Carin Olin, 1988).

The importance of commerce, as a relatively independent argument, is explicitly expressed in numerous ordinances. One of the most common phrases used as a justificatory argument for ordinances was “flux of commerce” (*commerciernes lopp*). Rulers issued police ordinances in order to promote the smooth flux of commerce. The term ‘commerce’ appeared almost always in the plural form, i.e., “commerces” (*commercier*). This term of Latin origin was a novelty compared to the vocabulary of sixteenth-century ordinances in which the Swedish term “*handel*” (commerce, trade) was exclusively used. However, the Swedish form did not disappear from seventeenth-century ordinances and was still used as a synonym for the Latin form. Sometimes the two terms appeared together.⁴⁵⁸

Examples of use of the Latin form *commerce* are numerous in seventeenth-century ordinances. In 1638, for instance, Queen Kristina issued a ban on the sailing of foreign ships to “unlawful” (*olaga*) ports. The Queen stated how her father, Gustav II Adolf, had already issued a similar ban in order to promote “the birth of towns as well as the unrestricted flux of commerces”.⁴⁵⁹ The argument appeared often in ordinances on customs duties (*tull-ordningar*). New and reviewed customs tariffs were given constantly for the “better and more comfortable flux of commerces and sailing in our Kingdom”.⁴⁶⁰ The same argument was also used when establishing a merchants’ guild in Stockholm,⁴⁶¹ granting privileges to a salt-works,⁴⁶² granting exemption from customs duties,⁴⁶³ giving orders on establishing convoys for merchant ships,⁴⁶⁴ and granting trading privileges.⁴⁶⁵

Interestingly enough, promotion of the flux of commerce was sometimes used as an argument for two opposite objectives. When the early trading companies were granted trading privileges and exemptions from customs duties, this was justified by the fact that it would promote the flux of commerce.⁴⁶⁶ However, when a general ordinance on the abolition of all trading companies was issued in 1680, it, too, was legitimised by the very same argument. It was now seen that trading companies with trad-

⁴⁵⁸ See e.g. von Stiernman, *Commerce, Politie och Oeconomie* . . . IV, 848, 880, 1018; V, 142, 573, 685, 832.

⁴⁵⁹ Ibid. II, 169. “*Städernes opkomst, så wäl som Commerciernes obehindrade lopp*”.

⁴⁶⁰ Ibid., 140. “*till Commerciernes och Seglationens deste bättre och beqwemmare lopp här uthi vårt Konungarike*”. See also pp. 188, 242, 355, 401, 467, 503; *ibid.* III, 3, 307.

⁴⁶¹ Ibid. III, 83.

⁴⁶² Ibid., 291.

⁴⁶³ Ibid., 495; *ibid.* V, 573.

⁴⁶⁴ Ibid. III, 944.

⁴⁶⁵ Ibid. IV, 158–159.

⁴⁶⁶ See e.g. *ibid.* I, 932; II, 40, 51.

ing monopolies constituted impediments for the “flowering of commerce” (*handelens flor*).⁴⁶⁷ As already indicated above, the monopolistic status of the trading companies caused much opposition amongst contemporaries during the seventeenth century. It was generally held that the companies benefited only their owners and not the common good.

It can be claimed that in the course of the seventeenth century commerce as a field of societal action gradually started to gain independent status in the sense that it was no longer primarily defined through moral and religious considerations. During the sixteenth century, the regulation of commerce had still had a strong moral-religious tone. For instance, an ordinance from 1544 had banned illegal trade in the countryside because “a Burgher, Yeoman and others [...] should keep that source of livelihood which God, all Christian reasons, and Our own written Law of Sweden allows.”⁴⁶⁸ Furthermore, a letter from 1555 had stated that “because we all live in the same kingdom and all follow the Law of Sweden, it would thus be Christianlike and righteous and therefore to a great benefit and advantage to the realm, that we would all practice trade in the same manner.”⁴⁶⁹ According to sixteenth-century thinking, economic life was still subordinate to moral considerations. Instead of aspiring for economic growth, the aim was that each and every member of society would be able to fulfil their needs according to their societal status.⁴⁷⁰ In the seventeenth century, on the other hand, the primary point of reference of commerce was no longer so much morals and religion but instead politics. A transition took place in the Aristotelian three-dimensional system of ethics-economy-politics: a shift of emphasis from ethics to politics. Now, commerce should no longer solely be regulated because of making people industrious and worthy in the eyes of God but also because of making the kingdom more powerful.

To be sure, the connection between individual virtues, prosperity of a household and the strength of the kingdom was still very much acknowledged in seventeenth-century Sweden as the Manorial Court Order of 1671 testifies.

⁴⁶⁷ Ibid. IV, 291.

⁴⁶⁸ Ibid. I, 66–67. “[E]n Borgare/ Bönde och andre [...] skole blifwa hwar widh then nähring och bäring som Gud/ all christelig skähl och Wår egen beskrefne Sweriges lagh medgifwer.”

⁴⁶⁹ Ibid., 132. “[T]y effther Wij bygge och boo alle uti ett Konunge Rijke, och bruke alle Swerigis Lag, så wåre thett Christeligt och rättwisligt, thesliges menighe Rijkitt til stor nytte och fördell, att Wij och brwkede alle ett seet til att köpslage.”

⁴⁷⁰ Simon, “Gute Policey”, 151–167.

We Carl etc. let it be known, that the Well-being of a Regimen is, not to a small degree, also dependent on that in the private households of the subjects everything is kept in good order and properly run, and that each and everyone should perform their task with diligence and loyalty, that the fear of God and other virtues would be imprinted [on subjects], discipline and morality promoted, and decent and honest life led;⁴⁷¹

Nevertheless, the difference in regard to police ordinances of the previous century was tangible. Commerce was now considered as the main source of strength and prosperity of the Swedish realm and its inhabitants. A Latin phrase that captures this new ideal and also appears in ordinances at least once was "*commercia nervi societatis civilis*" ("commerce is the nerve of human societal life").⁴⁷²

But how, exactly, was commerce thought to make Sweden stronger and more prosperous? We must turn to the ideals of seventeenth-century Swedish economic policy to answer this question. Economic policy in seventeenth-century Sweden followed mercantile ideals as in other European countries. Emphasis was laid on a positive trade balance, economic independence and exploitation of domestic natural resources. These goals were, of course, heavily intertwined.⁴⁷³ They manifested themselves clearly in seventeenth-century police ordinances. As already mentioned, in 1620, a copper trading company was established in order to export Swedish copper. The company soon gained monopolistic status in European copper markets that lasted almost throughout the seventeenth century.⁴⁷⁴ Various manufactories were established to start domestic production of various necessities that had so far been imported. For instance, a privilege was granted to establish a silk manufactory in Gothenburg in

⁴⁷¹ von Stiernman, *Commerce, Politie och Oeconomie... III*, 852. "Wij Carl etc. Giöre witterligit, såsom thet jemwäll til ett Regementes Wälstånd icke ringa macht uppå ligger, at uthi Undersåtarenas Hushåldningar alt uthi godh ordningh hålles och skickeligen tilgår, på thet, jämpte the syslor, som hwar och en effter sitt ämne medh slijt och trohet förrätta bör, Gudsfruchtan och andre dygder inplantas, tuckt och sedighet främjas, och ordenteligit och ährbart lefwerne föras må."

⁴⁷² Ibid. I, 710. The term *societatis civilis* did not yet refer to civil society in the modern sense, i.e. as a counterpoint to the state. Instead, *societatis civilis* was still understood in the seventeenth century as the totality formed by the ruler, the state apparatus and the people. Thomas Hobbes (1588–1679), for instance, is a prime example of this line of thought. See John Ehrenberg, *Civil Society: The Critical History of an Idea* (New York and London: New York University Press, 1999), 70–80.

⁴⁷³ On seventeenth-century Swedish economic policy, see Leif Runefelt, *Hushållningens dygder: Affektlära, hushållningslära och ekonomiskt tänkande under svensk stormaktstid* (Stockholm: Stockholm Studies in Economic History 34, 2001), 128–153.

⁴⁷⁴ See von Stiernman, *Commerce, Politie och Oeconomie... I*, 761–774. See also Heckscher, *Sveriges ekonomiska historia... I:2*, 450–455.

order to “benefit the fatherland and its inhabitants”,⁴⁷⁵ a privilege was given to a glassworks in order to produce window glass in Sweden,⁴⁷⁶ and so on. Furthermore, several ordinances were given to ban the import of foreign cloth because it was considered a threat to domestic textile manufactories.⁴⁷⁷

Although economic independence was one of the leitmotifs of seventeenth-century economic policy, commerce with other countries was considered necessary and useful for many reasons. A long quotation from a contract with the Swedish South Company is quite revealing in this respect.

First of all and to begin with, it is good to *consider* and notice that God the Almighty, in his incomprehensible wisdom and far-sightedness, has ordained that all the things that are necessary for the well-being and livelihood of people are not to be found in one country alone but instead each Land is blessed with different boons of God so that what one place misses, another place is pregnant with. This is the reason why one Land may not get by without the others but instead the Inhabitants are compelled to trust each other. This is also the reason why they are also prone to venture themselves on to the seas and soil, at first of known regions, and then of unknown and new Lands which they have discovered and colonized, with remarkable gain and benefit, not only because what each one of them themselves has sought and found and in the case of abundance delivered to others; but also and especially because through such *navigation, traffic* and *commerce* as well as Knowledge, Friendship and Alliance caused thereof, one *nation* becomes involved in the Arts, Customs, and *Police* of another.

Secondly, experience herself teaches us that all the Kingdoms, Countries and Cities that flourish in Power and Richness have through Navigation, Tradesmanship, establishing of all sorts of Trades and Crafts, and especially through the finding and seizing of new and unknown Lands, become powerful and rich, of which Spain and the united Provinces of Netherlands serve as two especially useful examples.⁴⁷⁸

⁴⁷⁵ von Stiernman, *Commerce, Politie och Oeconomie* . . . IV, 14.

⁴⁷⁶ *Ibid.* III, 941–943; *ibid.* IV, 144–149.

⁴⁷⁷ *Ibid.* V, 339–341, 397–401, 457–459.

⁴⁷⁸ *Ibid.* I, 913–914. “Och är först och i begynnelsen wäl at considerera och befinna, thet GUDH then aldråhögste, efter sin obegripeliga wijsheet och försyn, således förordnat och förseedt hafwer, at thet som til Menniskiornes wälstånd och uppehålle nödigt behöfwes, finnes icke alt på een ort, uthan hwar Landskap för sigh är medh serdeles GUDz gåfwor wälsignat, så at thet som een städz feelar, det öfwerflöder annorstädes. Orsak, hwarföre det ena Landet icke kan umbära det andra, uthan Inbyggerne moste inbördes ljita til hwar annan. Therigenom äre the ock bewekte at wåga sigh til Siöö och sand, i förstone åt bekende orter, och nu sedan til okunnige och nyie Landh, hwilka the upsökt och besatt hafwe, medh märkelig stoor fördeel och nytto, icke allenast för then skuld, at then eene hoos then andre hwad honom trutit, sökt och funnit, och ther emoot thet, som til öfwerlops warit, them torfflige tilfö-

The ordinance goes on by listing the riches that both Spain and the Netherlands have gained from foreign trade and by regretting how the Swedes had been satisfied with staying within the borders of the kingdom. However, the ordinance also listed advantages that Sweden has in comparison to Spain and the Netherlands, among other things, lower profit expectations and lower labour costs on ships. The idea about the necessity of trade because of the uneven distribution of natural resources between different countries was typical of mercantile thinking. However, it did not contradict the idea of economic independence. A country could export anything that exceeded domestic need and import goods that were unavailable in the home country.⁴⁷⁹

Along with new economic argumentation new economic concepts were also introduced in police ordinances of the seventeenth century. In particular, ordinances on privileges for new trading companies included new foreign economic concepts. The name of these new enterprises, i.e., "*compagnie*", was already a novelty in early seventeenth-century ordinances. Furthermore, these ordinances introduced other foreign terms such as "*capital*", "*action*", "*interesse*", "*credit*", "*obligation*", "*termin*", "*procento*", "*profit*", and others.⁴⁸⁰

Promotion of commerce by the seventeenth-century Swedish monarchs did not spring, of course, from mere altruistic motives. The crown had an interest in augmenting its own treasury. In this respect, the situation in seventeenth-century Sweden corresponded to the situation in Continental Europe. For instance if one views the seventeenth-century German literature on political theory, a radical change took place compared to the previous century. This literature attests to a new awareness of financial matters. The doctrinal development mirrored, of course, the historical changes that early modern states were forced to confront: the emergence of a mercantile capitalistic economy, the expansion of modern administrative apparatus, and continuous warfare. These phenomena

rdt och meddeelt hafwer: Uthan besynnerligen therföre, at igenom sådan navigation, trafiq, och Handel, sampt ther affförorsakade Kundskap, Wänskap och Förbund, är een nation then andres Konster, Seder och Politie blefwen delachtig. Sedan lærer oss sielfwe förfarenheten, at alla the Konunge-rijken, Land och Städer som uthi Macht och Rijkedom florere, hafwe igenom Seglation, Kiöpmanskap, allahanda slagz Handwärcks stiftande, och eenkannerligen therigenom at Inbyggerne, nyie och tilförene okunnige Landh upsökt och intagit hafwe, äre mächtige och rijke wordne, hwilket är at bewijsa, medh Spanien och the förbundne Provincier i Nederland, som medh tw ther til serdeles tienlige exempel."

⁴⁷⁹ Runefelt, *Hushållningens dygder*, 130.

⁴⁸⁰ See e.g. von Stiernman, *Commerce, Politie och Oeconomie...I*, 660–667, 718–731, 761–774, 932–947.

brought money into the centre of political theory. Taxation and customs duties were seen as essential means of acquiring money for the endless expenditure of the state. This development also meant the beginning of a trend by which economic and financial questions gradually became detached from the more encompassing question of 'good police'. A Latin phrase that often appeared in the German literature and denoted the new emphasis on money was '*pecunia nervus rerum*', i.e., money is the nerve of all things.⁴⁸¹

Although seventeenth-century Swedish police ordinances did not include sophisticated theoretical or doctrinal contemplation on the ruler's right to levy taxes and impose customs duties, the connection between crown income, customs duties and commerce became evident in the ordinances. For instance, the establishment of the Swedish South Company in 1624 was justified by the objective of "noticeable betterment of Our and the Crown's *income*, as well as the great *profit* and benefit of the subjects."⁴⁸² An ordinance on the sailing rights of towns of 1636 stated how Swedish rulers had always "promoted *sailing* and *commerces* [...] for the growth of the countryside and the towns as well as for the increase of Crown *income*."⁴⁸³ In 1653, Queen Kristina issued a *patent* on freeing the tobacco trade. The privilege of the tobacco trading company was abolished and the toll on tobacco reduced so that people would not secretly import tobacco and that "Our and the Crown's customs receipts would not be embezzled."⁴⁸⁴ In 1664, Karl XI issued an "iterated" Statute and Ordinance on Breweries and Inns throughout the Realm because all previous ordinances are "hardly paid *attention* to and Our *income* thereby decreases and is lost".⁴⁸⁵

⁴⁸¹ Stolleis, *Pecunia Nervus Rerum*, 63–103. The development also affected contemporary jurisprudential literature in Germany. Questions such as how to legitimate a ruler's taxing power, what were the limits of this power, etc. were widely discussed in the literature. See *ibid.*, 103–128.

⁴⁸² von Stiernman, *Commerce, Politie och Oeconomie... I*, 910. "[M]edh märkelig förbättring på Wäre och Cronones Intrader, sampt Undersåternes store profit och fordeel." The same argument was used in a privilegium for a 'Codfish Company' (*Bergerfiske Compagniet*) from 1652; see *ibid.* II, 684–685.

⁴⁸³ *Ibid.* II, 66. "[H]afve winlagdt sigh om at fatta Seglationen och Commerciernes gang [...] till sine Landz och Städens tilväxt och förbättring och til Cronones intraders förökning."

⁴⁸⁴ *Ibid.*, 708. "Wår och Cronones tull försnillat blifwa."

⁴⁸⁵ *Ibid.* III, 298. "[T]il Wäre intraders förminskande och afsaknad, ringa attenderas." The same argument was also used when giving ordinances on "mill customs" (*qvarn-tull*); see *ibid.* IV, 233.

Although economic argumentation increased notably in seventeenth-century police ordinances, it would be a mistake to talk about an independent economic theory. As Leif Runefelt has argued, there existed “a wide range of expressions of economic thought, not forming any independent literature or ‘discourse’”. Economic thinking in seventeenth-century Sweden was still subordinated to a more general strand of political thinking, namely, police (*politie*). Contemporary economic thinking was determined by the more general aim of achieving good societal order.⁴⁸⁶ This aim is apparent in seventeenth-century police ordinances which also illustrate how economic views were heavily intertwined with political questions and considerations such as the strength of the realm, crown income, the well-being of the inhabitants, and so on. Economic argumentation was also still intertwined with religious-moral considerations about good societal order.

LOGIC OF ORDINANCES

Impetus for Issuing Ordinances and Addressees

As was the case with sixteenth-century Swedish police ordinances, the impetus for issuing ordinances in the following century also often came from subjects. For instance, it was stated in an ordinance of 1635 on coinage in the town of Stockholm how it had become a “common cause of complaint in the realm” that not enough coins were available in bigger towns.⁴⁸⁷ In 1664, Queen Kristina issued a resolution where she granted exemption from the small toll (*lilla tullen*) to the tradesmen of the town of Norrköping. The tradesmen had complained how they had had to pay double duties; first import duties for the raw materials that they had imported from abroad, and then the small toll when they took their products for sale at the fairs of other towns.⁴⁸⁸ The grant of privileges for manufactories also usually happened on private initiative. For instance, a merchant from Hamburg, one Jurgen Erhorn, approached Karl XI in 1673 expressing his wish to establish a silk manufactory in Gothenburg. The king assented to Erhorn’s wish and granted him a privilege because it was “beneficial to the fatherland and its inhabitants”.⁴⁸⁹ Perhaps the only change that

⁴⁸⁶ Runefelt, *Hushållningens dygder*, 257.

⁴⁸⁷ von Stiernman, *Commerce, Politie och Oeconomie . . . II*, 29.

⁴⁸⁸ *Ibid.*, 385–386.

⁴⁸⁹ *Ibid.* IV, 14.

took place in comparison to the previous century was that seventeenth-century ordinances occasionally included new Latin terms to denote applications and complaints, namely, "*supplication*",⁴⁹⁰ "*gravamina*"⁴⁹¹ and "*remonstration*"⁴⁹² thus echoing the continental vocabulary.⁴⁹³

As explained above, early modern police ordinances should not simply be seen as orders given from above. Instead, they should be understood as one of the numerous institutional settings that allowed two-way communication between the central authority and subjects at local level. The fact that the impetus for issuing police ordinances often came from the subjects themselves proves this point.⁴⁹⁴

Again in the seventeenth century, Swedish police ordinances were, of course, primarily addressed to the subjects of the realm. As during the previous century, police ordinances were given for the entire realm,⁴⁹⁵ for a particular province,⁴⁹⁶ for an individual town,⁴⁹⁷ for a particular profession,⁴⁹⁸ or even for an individual person as was the case, for instance, with manufacturing privileges.⁴⁹⁹ Nevertheless, even in the case of a privilege for an individual person, ordinances were always meant for the knowledge of a wider public.

As in police ordinances of the sixteenth century, seventeenth-century ordinances also included orders to royal and local authorities. For instance, it was stated at the end of a 1664 statute on breweries and innkeepers that

to all this, each party concerned, especially Chamber and Commerce Collegiums, as well as the Governor of Stockholm, Burgomasters, and the Council of Our Residence Town of Stockholm must adhere.⁵⁰⁰

⁴⁹⁰ See e.g. *ibid.* II, 207–208, 463, 621; III, 170; IV, 630.

⁴⁹¹ See e.g. *ibid.* II, 99.

⁴⁹² See e.g. *ibid.*, 466.

⁴⁹³ See Blickle, "Beschwerden und Polizeien".

⁴⁹⁴ See above pp. 79–82.

⁴⁹⁵ See e.g. the 1663 *Placat* on horse fairs in the realm, von Stiernman, *Commerce, Politie och Oeconomie*... III, 164–169.

⁴⁹⁶ See e.g. the 1674 *Placat* on cutting mast trees in the provinces of Wermeland (Värmland) and Dahl (Dalsland), *ibid.* IV, 43–44.

⁴⁹⁷ See e.g. the 1664 *Placat* against all kinds of disorder in the town of Stockholm, *ibid.* III, 191–197.

⁴⁹⁸ See e.g. the 1664 *Stadga och Ordning* on breweries and innkeepers, *ibid.* III, 298–302.

⁴⁹⁹ See e.g. the 1676 *Privilegier* on the establishment of a glassworks, *ibid.* IV, 145–149.

⁵⁰⁰ *Ibid.* III, 302.

A ban against illegal trade in the countryside of 1682 ordained all governors in the country to “keep a serious eye on things and not to allow any kind of breach against this ban.”⁵⁰¹

However, in the course of the seventeenth century, Gustav II Adolf established a modern governmental system in Sweden based on central agencies. It was no longer sufficient that royal authorities would receive their instructions incorporated in more general police ordinances. Judging by the empirical material of this study, various kinds of internal administrative orders increased notably towards the end of the seventeenth century. For instance, out of the 459 documents incorporated in volume V (years 1673–1688) of Stiernman's compilation of commerce, police and economy ordinances, only 167 were included in this study. The rest were internal instructions and the like addressed to different administrative bodies, i.e., not police ordinances addressed to the public. These internal instructions included, among other things, orders on the enforcement of police ordinances,⁵⁰² specified instructions on the application of police ordinances,⁵⁰³ and responses to queries from different authorities.⁵⁰⁴ As mentioned above, these kinds of documents were not included in this study.⁵⁰⁵ The internal instructions indeed bear witness to the emergence of a modern state apparatus. Administrative activities started gradually to become increasingly written, rational, formal and disciplined.⁵⁰⁶

Finally, as during the first research period, the recurrence of ordinances on the same subject matter was high.

Police Ordinances and Medieval Law

As mentioned above, the idea of the ruler as a law-giver was already known in Sweden in the late Middle Ages. It was stated in the most renowned political tractate of the fourteenth century, the *Konungastyrelsen*, that kings were to rule for the benefit of their subjects and give good and just laws. At the beginning of the early modern period, these views were repeated, for instance, both in Peder Månsson's and Johan Skytte's mirror-

⁵⁰¹ Ibid. IV, 522.

⁵⁰² See e.g. the 1682 *Bref* to the General Customs Officer Brynte Cronskiöld to get rid of all abuse and fraud in customs on the Isle of Gotland, von Stiernman, *Commerce, Politie och Oeconomie*... IV, 515–516.

⁵⁰³ See e.g. the 1681 and 1683 *Förklaringh* on the 1681 Coin Order (*Mynte-Placat*), *ibid.*, 469–470, 560–562.

⁵⁰⁴ See e.g. the 1681 *Bref* to Chamber Collegium on excises on bread, *ibid.*, 324–325.

⁵⁰⁵ See above pp. 15–16.

⁵⁰⁶ Härter, “Verwaltung,” 257–258.

for-princes works.⁵⁰⁷ Furthermore, sixteenth-century police ordinances also included explicit references to this notion. Kings justified their law-giving authority by arguing that they were appointed to their office by none other than God himself and that they acted in the best interest of the realm and its inhabitants.⁵⁰⁸ This was also the case in seventeenth-century ordinances, of which the Ordinance on Legal Guardians (*förmyndare-ordning*) of 1669 stands as a good example.

We Carl &c. let it be known that since Our high Office demands Us to mercifully attend to the well-being of our loyal Subjects, which can be promoted, in fact, not to a small degree through the giving and enforcement of good Ordinances and Statutes; And it has now especially brought to Our attention that during the reign of previous Kings only a little or not at all has been enacted on legal guardians and their tasks, and trusted such matters to the [provisions of] Law, with the result that the upbringing, rights and property of underaged children have been largely neglected.⁵⁰⁹

This passage includes all the elements of the above mentioned idea: the king's high office requires him (1) to attend to the well-being of subjects (2) through issuing good ordinances (3). But there is more to the passage than this, since it also gives an indication of how the relationship between royal police ordinances and medieval law (i.e., the Law of the Land and the Town Law) was conceived during the early modern period (4). Namely, it reveals that police ordinances were considered to be a necessary means of updating and completing the outmoded provisions of the medieval law codes. Sometimes, this notion was explicitly stated in the ordinances as was the case in the Statute on the Administration of Towns of 1619. This stated that

We, Gustaf Adolph etc. etc. let it be known that although the Town Law of Sweden carefully and accurately portrays such a *Police* [i.e. order] and essence through which a well-organized town may be maintained and promoted, still many useful *Provisions* of the written Town Law of Sweden date back to ancient times, and their review has been neglected, and also

⁵⁰⁷ See above pp. 26–33.

⁵⁰⁸ See above pp. 71–75.

⁵⁰⁹ Schmedeman, *Justitiæ och Executions-Ähreder*, 571. "Wlj Carl &c. Göre witterligit, at emedan Wärt höga ämbete af Oss kräfwer, at bära en nådig omsorg om våra trogne Undersåtares wälfärd, hwilken ibland annat igenom gode Ordningars och Stadgars inrättande och handhwande icke litet, uti sielfwa wärcket befordras kan; Och Oss i synnerhet är förekommit thet angående Förmyndare och thes ämbete, litet eller fast intet uti förra Konungars tijder är blifwit stadgat, förutan thet sielfwa Lagen om sådana måhl lämnat hafwer, hwarigenom med omyndige Barns upfostrande, rätt och egendomb mycket är blifwit försummat." See also *Bergwerken och Bruken*, 72.

because of other reasons they have become useless and sank into oblivion, thereby causing all sorts of confusion, bafflement and disorder, as well as in Town Government and Legal Proceedings as in the trade and livelihood of Burghers; So have also times changed, as have the conditions of Our Neighbors and the customary ways of trade and livelihood, and because we must now adapt ourselves in having dealings with one nation as well as the other, We have allowed a review of the Town Law of Sweden and each and every City *Privilege*, and allowed to be extracted and drawn up some Articles which We have found to be forgotten or necessary to the betterment and prosperity of Our towns, making them better and clearer, and which We want from now on to be followed and complied with, not thereby abolishing the Town Law but more like recalling it into use and employment, so that Our Towns would be properly governed, *Justice* justly administered, and Burghers' honest trades expanded and developed as the following *Provisions* will show:⁵¹⁰

In contemporary legal thought no clear distinction seems to have been made between the customary provisions of the Law of the Land and the Town Law on the one hand, and royal police ordinances on the other. Both received their legitimacy from higher norms, i.e., natural law and divine law (the Bible). All positive law, i.e., man-made law, had to be congruent with the norms and principles of these higher legal orders. The task of the ruler was thus to enforce natural and divine law through issuing positive law. A further criterion for the legitimacy of positive law was that it was to be given for the promotion of *utilitas publica*, i.e., the common good.⁵¹¹ However, the attitude towards changing legal norms, especially norms of customary law, was cautious. A change or amendment could

⁵¹⁰ von Stiernman, *Commerce, Politie och Oeconomie... I*, 731–732. "Wij, Gustaf Adolph etc. etc. etc. Giöre witterligit, at ändoch Sweriges Stadz Lagh nogsamt och klarligen beskrifwer en sådan Politie och wäsende, dermed en wälbestält Stad uppehålles och förkofres kan, lijkwäl emedan många nyttiga Puncter uti föreskrefne Swenska Stadz Lag äro af långliga tider, och deras som upsyn hafwa skulle, försummelse, så och andre orsaker komne i obruk och förgiätenhet, och således förorsakas allahanda confusion, oreda och oordning, så wäl i Stadzens Regemente och Rätttegångar, som Borgerskapens handel och nähring; Så hafwa och tiderne sig förändrat, och Wäre Naboers wilkor, sampt nu öfliga handel och wandel sig således förändrat, och Wij för det omgiänge skul then ena Nation hafwer och moste hafwa med den andra, och så nödgas i nogon motto Oss thertil at beqwäma, hwarföre hafwe Wij låtit öfwersee Sweriges Stadz Lag, hwar och en Stadz Privilegier, och utaf them låtit utdraga och författa några Artiklar, them förbättrat och förklarat, som Wij hafwa funnit hafwa kommit i glömsko, eller nödige til Wäre Städens förbättring och tiwext, hwilka Wij wele härefter achtas och observeras skola, icke dermed abrogerandes utan fast mera återkallandes Stadz Lagen i bruk och öfning, och på det Wäre Städter ordentligen regerade, Justitien rättwisligen administrerad, och Borgerlig redelig nähring förökt warda och wäxa motte, som följande Puncter widare utwisa."

⁵¹¹ Lindberg, *Praemia et Poena*, 263–275.

not conflict with the norms of natural or divine law. Furthermore, each change had to be absolutely necessary.⁵¹² In any case, as the above quotation indicates, old law was not really abolished in the process but rather “recalled into use”.

However, the outmodedness of old provisions, the passing of time, and changes in societal life were all used as arguments when rulers were issuing new police ordinances. These kinds of arguments constituted necessary causes for abolishing or reviewing old law provisions or ordinances and giving new ones. For instance, passing of time and changes in commerce were used as arguments when new ordinances on customs duty tariffs were issued.

We Christina [...] let it be known that since our and the realm's status as well as the nature and change of *Commerce* seems to require and necessitate that the old Customs Order as well as the old customs tariffs be revised and to a certain extent adjusted according to the condition and the course of present times and Trade.⁵¹³

The “passing of time” and the “adaptation to the requirements of the present time” were also used as arguments when giving new regulations, for instance, on appropriate customs in festivities of the nobility,⁵¹⁴ on shipping,⁵¹⁵ on the tobacco trade,⁵¹⁶ on various trades and professions,⁵¹⁷ on the administration of the Town of Stockholm,⁵¹⁸ on the trading privileges of the Town of Gävle,⁵¹⁹ and on fire safety.⁵²⁰ The development of commercial life and trades, the intensification of urban life, and the growth of central and local administration necessitated giving new and up-to-date regulations in the form of royal police ordinances.

One the clearest examples of the pressing need to give new positive law was the privileges granted to various manufactories. In the course of

⁵¹² Ibid., 304–322.

⁵¹³ von Stiernman, *Commerce, Politie och Oeconomie... II*, 80–81. “Wlj Christina [...] Göre witterligit, at effter såsom vår ock Rijkzens Staat, så och Commerciernes Natur och förändring hafwer synts nödtorfftelighen fordra och kräfia, at then gamble Tull-ordningen sampt med then förra Taxen aff Tullen måtte blifwa öfwersedd, och någorlunda lämpat, effter thesse närwarande tjdens och Köphandelens tilstånd och lopp.” See also *ibid. II*, 503, 825.

⁵¹⁴ Ibid. *III*, 232, 720.

⁵¹⁵ Ibid., 514.

⁵¹⁶ Ibid., 821.

⁵¹⁷ Ibid., 903; *ibid. IV*, 427; *Bergwerken och Bruken*, 444.

⁵¹⁸ von Stiernman, *Commerce, Politie och Oeconomie... III*, 1051.

⁵¹⁹ Ibid. *IV*, 2.

⁵²⁰ Ibid., 102.

the seventeenth century, a number of manufactories were established in order to start domestic production of various necessities that had previously been imported from abroad. As noted, the idea was to increase the economic self-sufficiency of the Swedish state and put domestic natural resources to use. Mercantile economic policy gave birth to new regulation.⁵²¹ It can be asked, however, whether manufacturing privileges should actually be considered police ordinances and positive law at all. Is it historically suitable to parallel more specific manufacturing privileges, for instance, with general ordinances on illegal demands for transportation? According to Heinz Mohnhaupt, in early modern Europe the doctrines of *ius commune* did not distinguish between 'written law' (*Gesetz*) and privileges. Instead, they were paralleled at least in two respects. First, privileges, too, had to be congruent with the general normative requirements set by natural law, divine law, the law of nations, and fundamental laws. Secondly, as with law almost any subject matter could be regulated through privileges. Privileges thus belonged to the *potestas legislativa* of the ruler, in the same way as law and ordinances. In early modern legal thinking privileges were thus considered law. Privileges constituted a 'flexible law' (*flexibles Recht*) that both enabled exceptions from the provisions of law codes and made it possible to fill in 'legislative gaps'.⁵²²

In the early modern period, privileges, dispensations, pardons, and other forms of *ius singulare* were not, however, granted arbitrarily. A person who requested a privilege needed good arguments to support their petition. These arguments were normally related either to the special circumstances of the petitioner or to the 'basic maxim of police' (*policeyllische Grundmaxime*), i.e., *utilitas publica*. In other words, a precondition for approval of an application of privilege was that the privilege would benefit the common good.⁵²³ The latter was the case with many seventeenth-century Swedish manufacturing privileges. For instance, a letter of privilege to a flax mill from 1669 is most explicit in this regard.

We Carl &c. let it be known that as a result of the *Example* set by Our Ancestors, the Kings of Sweden, We gladly wish to see how all kinds of useful and valuable *Manufactories* are established here in Our Realm, for the

⁵²¹ See above pp. 167–174.

⁵²² Heinz Mohnhaupt, "Erteilung und Widerruf von Privilegien nach der gemeinrechtlichen Lehre vom 16. bis 19. Jahrhundert," in *Das Privileg im europäischen Vergleich, Vol. I*, ed. Barbara Dölemeyer and Heinz Mohnhaupt (Frankfurt am Main: Vittorio Klostermann, 1997), 108–113.

⁵²³ Holenstein, "Umstände," 28–32.

benefit of Our loyal Subjects and for the common good, and for that end they shall be granted and allowed special *Privileges* and freedoms.⁵²⁴

The same view about the purpose of privileges was also expressed in a *placat* of 1667 which ordered that all privileges that had so far been granted in the realm were to be submitted to the Royal Chancellery within a fixed term under penalty of losing them. The aim was to review all privileges in order to evaluate whether they performed the function they were granted for, i.e., whether they promoted the “common good” (*gemeena bästa*).⁵²⁵

New Rhetoric: ‘Intentions’ and ‘Effects’

Although old medieval law was merely “recalled into use”, a novel kind of awareness of the need to give new legislation was emerging. Swedish society was changing rapidly in the seventeenth century and laws needed to be adapted to this change as was explicitly stated in the ordinances. The awareness of giving new legislation manifests itself clearly above all in the new rhetoric and terminology of seventeenth-century police ordinances. The introduction of two terms in police ordinances is especially significant in this respect, namely, the terms ‘intention’ and ‘effect’. Let us have look at a quotation from the 1638 Customs Order:

We Christina [...] let it be known that as We, in the previous year, for the yet better and more comfortable flux of *Commerce* and *Sailing* here in our Kingdom and its *Provinces*, and especially to *benefit* our own subjects and inhabitants in seatowns and to ease their burden, and, additionally, to prevent all embezzlement and malpractice in our and the Crown’s customs duties, have found it good to amend and improve to a certain extent the old Customs Order: Therefore, in order for our good *intention* to even better have a good and desirable *effect* [...].⁵²⁶

⁵²⁴ von Stiernman, *Commerce, Politie och Oeconomie... III*, 794. “Wij Carl &c. Göre witterligit, at såsom Wij i följe af Wäre Antecessorers, Sweriges Konungars Exempel giärna derhån syfta, huru såsom allehanda nyttige och tienlige Manufacturer här uthi Wårt Rike inrättas, och til Wäre trogne Undersåtares nytta och det gemena bästa drifwas och fortsättas måtte, och til den ändan dem medh särdeles Privilegier och friheter beneficera och benåda.”

⁵²⁵ von Stiernman, *Commerce, Politie och Oeconomie... III*, 590–591.

⁵²⁶ Ibid. II, 140. “Wij Christina [...] Göre witterligit, att efter som Wij nästförledne år hafwe til Commerciernes och Seglationens theste bättr och beqwemare Lopp här uthi vårt Konungarijke och thess Underliggiande Provincier, och i synnerheet medh någhon lindring wäre egne Undersåter Rijkens Inbyggjare enkanterlighen Siöstäderna merkelighen at beneficera, och ther bredewedh alt undersleff och missbruk i wære och Cronones Tuller at förekomma, för godt funnet then gambla Tullordningen at låta i någre måttor förändra och förbättra: Altså på thet sådan wår gode intention theste bättr måtte komma til at nåå någon god och önskelig effect.” See also *ibid.*, 242, 355.

The quotation includes these two terms that were still unknown to sixteenth-century police ordinances but started to appear in ordinances from the 1630s onwards. The terms “intention” and “effect” appeared together when controlling the tobacco trade,⁵²⁷ giving specifying regulations on banks,⁵²⁸ regulating weights and measures and,⁵²⁹ and encouraging craftspeople to take up residence in Stockholm.⁵³⁰ Often, the term “intention” appeared in ordinances independently of the term “effect”. For instance, in 1638, Queen Kristina stated in an ordinance on free fairs of the town of Kalmar how she had always wished the commerce of the town to flourish. Therefore she had ordered a free fair of eight days to be held in the town each October. However,

as it tends to happen, that Our healthy *intention* is often tormented by the self-seeking of some people; [...] Therefore, We have decided to *regulate* the trade in the free fair in the following way [...].⁵³¹

The term “intention” was also used when, for instance, giving confirmation to the yearly income of an orphanage,⁵³² granting privileges to a potash distillery,⁵³³ regulating apprenticeship in manufactories,⁵³⁴ granting privileges to the Town of Landscrona,⁵³⁵ defining the value of coins,⁵³⁶ regulating trade,⁵³⁷ and granting privileges to a society of pharmacists.⁵³⁸

Another term that was used to denote the deliberate plans and intentions of the ruler was the French word “*dessein*”. For instance, in a Placat on the building of houses on empty sites in Stockholm, Queen Kristina claimed how her wish had always been to see her residence town with solid houses and a town plan as in other beautiful and remarkable towns in foreign countries. However, this “useful plan” (*nyttige dessein*) had not had the desired “effect” because of the difficulties in tearing down old houses, the rise in prices of sites, and disorganization in the disposition

⁵²⁷ Ibid., 875.

⁵²⁸ Ibid., 893.

⁵²⁹ Ibid. III, 309.

⁵³⁰ Ibid., 900.

⁵³¹ Ibid. II, 153–154. “*Men såsom gemenligen plågar hända, at sådan vår hälsosamme intention och wälmening plågar aff någre egennyttige blifwa missbrukat; [...] Tå hafwe Wij samme Frijmarknadz handel på efterföljande sätt regulera*”.

⁵³² Ibid., 629.

⁵³³ Ibid., 758.

⁵³⁴ Ibid. III, 93.

⁵³⁵ Ibid., 135.

⁵³⁶ Ibid., 248, 339.

⁵³⁷ Ibid. IV, 7.

⁵³⁸ Ibid., 572.

of new houses.⁵³⁹ The term “motives” (*motiver*) also appeared in some ordinances.⁵⁴⁰

It can be argued that the emergence of the terms ‘intention’ and ‘effect’ bears witness to a qualitative change in early modern views concerning lawgiving. In the seventeenth century, a new awareness about lawgiving emerged according to which new laws could be given in order to achieve intended ends. Police ordinances now had both ‘intentions’ behind them and ‘effects’ that were sought. Sometimes, a particular ordinance might express how it had been given after serious and thorough contemplation. A letter from 1666 is a good example of this.

As Our *Comissars* have now all these issues carefully and thoroughly deliberated and discussed, and We have let their written *Sentiment* and *Relation* to be presented to Us thus considering everything; Therefore We are completely of the same opinion with their understanding and advice; especially letting Ourselves to concede to the proposal which they have given on the conservation and maintenance of the Mining Camps, in their present necessity, to coin 1200 *Skeppunds*⁵⁴¹ of Copper coins.⁵⁴²

Whereas sixteenth-century Swedish police ordinances still included frequent references to the Law of Sweden (*Sveriges Lag*), these references became scarcer in seventeenth-century ordinances. Of course, references to the medieval law codes did not disappear altogether, since some seventeenth-century ordinances still regulated the same issues as were addressed in the medieval law codes. For instance, ordinances against illegal demands for transportation and hospitality as well as against poaching still referred to the Law of the Land.⁵⁴³ But now, from the early seventeenth century onwards, royal police ordinances started to include more and more references to previous police ordinances instead of the Law of the Land or the Town Law contained no provisions on, for instance,

⁵³⁹ Ibid. II, 581.

⁵⁴⁰ See e.g. ibid. I, 913; III, 248.

⁵⁴¹ Skeppund was a common unit of measure of weight which equaled approximately 170 kilogrammes.

⁵⁴² von Stiernman, *Commerce, Politie och Oeconomie*...III, 389. *Såsom nu Wäre Commissarier alla desse ährender noga och flitigt öfwerlagt och debatterat hafwa, och Wij deras skriftelige Sentiment och Relation hafwe låtit Oss föreläsa, och det altsammans öfwerwägat; Altså äre Wij ock med deras meningh och inrådadnde aldeles tilfreds; Enkannerligen låte Wij Oss i Näder behaga det förslag, som de til Bergslagerne Conservation och uprätthållande gifwit hafwa, nembligen, at Bergslagerne, widh denne deras närwarande necessitet, förünnes, at mynta 1200 Skp:d i Kopparplåtar.* See also e.g. ibid. I, 913–914; II, 702, 875; III, 44, 248, 319.

⁵⁴³ See e.g. ibid. II, 46, 318, 373, 531, 596, 612.

customs tariffs, the tobacco trade, and coinage.⁵⁴⁴ As already noted, new police ordinances on these kinds of issues had to be given recurrently due to the crown's ever-growing need for funds.

The awareness of giving well-thought-out *new legislation* in the form of police ordinances bears witness to the emergence of a 'voluntaristic understanding of legal norms' in seventeenth-century Sweden. The origin of law no longer lay solely in custom but instead in the intention, i.e., in the will, of the ruler.⁵⁴⁵ The expansion of the role of the ruler from merely enforcing old custom based legal norms into giving new norms has been characterized as a transition from '*Rechtsgebot*' to '*Gebotsrecht*', i.e., from 'individual legal orders' to a whole new 'system of law based on orders'. Police ordinances played a vital role in this transition. In other words, the ordinances that the rulers were issuing were no longer simply given to preserve the old medieval laws and to maintain a societal order that had prevailed from time immemorial. Instead, royal police ordinances now began to be considered as new law with the help of which a 'new order' could also be created in society.⁵⁴⁶

SUMMARY

During the second research period of 1612–1718, the four compilations of police ordinances included 943 ordinances regulating a total of 1 013 police matters. This was a huge increase compared to the respective figures of the first research period of 1523–1611 (293/416). However, no significant change took place in regard to the percentages of the main groups of police matters. Matters concerning the economic system and professions still formed the biggest group with 64 %. Matters of public safety and order were regulated in 15 % of ordinances. Issues of societal and social order were addressed in 10 % of ordinances. Land division, public construction, real estate and public institutions were the topic of 7 % of ordinances. Finally, only 4 % dealt with poor relief, public health, education and schooling, and culture.

Although such issues as trading rights, price controls, export bans, customs duties and excises were still regulated in ordinances concerning the

⁵⁴⁴ See e.g. *ibid.*, 396, 488, 634, 652, 678, 701, 777, 779, 825.

⁵⁴⁵ On the emergence of the 'voluntaristic understanding of legal norms' see Simon, '*Gute Policy*', 75–89.

⁵⁴⁶ Schulze, *Policy und Gesetzgebungslehre*, 41.

economic system and professions, the seventeenth century also introduced a whole set of new issues. Such new commercial and industrial institutions as trading companies, banks and manufactories were established through royal privileges. They all needed to be regulated. Furthermore, various professions in different fields of commerce and industry received new regulations, as for instance in the field of mining. All this reflected, of course, the growth and internationalization of Swedish economic life which took place in the seventeenth century. Development of the state administrative system is also clearly visible in the ordinances. Numerous ordinances on new central authorities and their administrative tasks were given during the second research period. These were all issues that were not addressed in the medieval King Kristoffer's Law of the Land or Magnus Eriksson's Town Law.

However, it was not only the increase in the overall number of police ordinances or the introduction of new areas of regulation that marked the second research period. Old phenomena were also sometimes regulated with a new logic. The system of free transportation and hospitality serves as an example of this. Ever since the Middle Ages, the people had had the responsibility to provide the king or his representatives transportation and hospitality for free. However, this royal prerogative was widely abused by the nobility. For a long while, the primary means of combating this societal evil was simply a ban on all unlawful demands under threat of punishment and promotion of the establishment of inns and taverns. However, the regulative logic changed in 1649 when the whole institution of free transportation and hospitality was renounced. From then on, all travellers, including royal officials, were to pay for horses and accommodation. In order to finance the costs of the new system, a new yearly levy was imposed by the crown. Of course, the reform did not at once put an end to unlawful demands but it bears witness to a new, more modern approach the problem. Instead of regulating the phenomenon solely through bans and injunctions, the problem was tackled through economic regulation – a feature of a modern administrative state in the making.

The royal police ordinances of the second research period were legitimated to a large extent by the same arguments as the sixteenth-century ordinances. Political arguments such as 'the benefit of the realm and its inhabitants' and 'common good' were still used as reasons for issuing royal ordinances. The concept of 'police' was still used to denote the abstract order in society. However, the concept also received a more specific meaning since it appeared in the 1672 ordinance on town administration

in Stockholm where it indicated an independent field of town administration including matters concerning blasphemy, luxury, drunkenness and gambling, begging and poor relief, fire safety, church and schools, statutory guardianship, the town archives, and the night watch. This definition of police matters already anticipated the development towards a more narrow definition of police today.

In regard to religious argumentation, the fear of 'the wrath of God' still appeared in preambles as a reason for giving ordinances. However, religious argumentation had partly changed its tone since God was also thanked for various natural resources that he had 'blessed' the country with. It fell upon the rulers to see that these natural resources were put to good use. More importantly, however, the emergence of economic argumentation in preambles was a significant change in comparison to the first research period. In this respect, the argument used most often was 'the flux of commerce'. Indeed, the increase in international trade, manufacturing industry and mining all emphasised the importance of an uninterrupted flux of commerce. Commerce and trades were also seen as the source of the 'strength of the realm'; an argument which sometimes appeared in preambles attesting to the subtle emergence of *ratio status* thinking in Sweden.

In regard to the logic of police ordinances of the second research period, the impetus for issuing ordinances still continued to come from the subjects to a large extent. An obvious example of this is the numerous privileges granted to various manufactories. Police ordinances were still addressed to a wider public also including orders to the royal authorities. However, as the central administrative apparatus grew bigger and more complex in the course of the seventeenth century, the four compilations started to include more and more individual administrative orders addressed to different authorities towards the end of the century. As noted, these orders were not included in this study because of their character as internal administrative orders.

However, one noticeable change concerning the logic of ordinances did take place in the seventeenth century. In comparison to ordinances of the previous century, seventeenth-century police ordinances manifested a novel kind of awareness of making new law. The need to change old law was made explicit in ordinances. The outmodedness of old provisions, the passing of time, and changes in societal life were all arguments used for giving new police ordinances. On a more general level, the law was reformed in the name of *utilitas publica*. Police ordinances were

now increasingly thought of as a means to pursue preset societal goals. Police ordinances were explicitly based on the 'intentions' of the rulers. Ordinances also spoke of 'effects' that were sought. Police ordinances were no longer conceived of as mere execution of medieval law codes but instead of giving new law. Thanks to the royal police ordinances, a step closer towards a voluntaristic understanding of legal norms was taken in the seventeenth century.

CHAPTER FIVE

SCIENTIFICATION OF POLICE: THE END OF THE BROAD CONCEPTION OF POLICE

POLICE SCIENCE IN GERMANY

Police science (*Policeywissenschaft*) developed during the eighteenth century into an independent academic discipline in Germany. Police science was “the scientific doctrine of the internal politics of the older German territorial states”.¹ Its roots lay, for instance, in Aristotelian moral philosophy, earlier mirror-for-princes and *Hausväter*-literature, and various kinds of tractates on commerce, agriculture, and the like of preceding centuries.² The first two academic chairs that included police science were established in 1727 in Prussia (Halle and Frankfurt) and within the next fifty years all the major German universities were to follow their example. The discipline was studied at universities up until the middle of the nineteenth century – sporadically even until the 1870s.³

The status of police science as an independent discipline – in respect to other cameral sciences – was achieved through the works of the famous German economist and social scientist, J. H. G. von Justi (1717–1771). Justi built the foundations for an independent police science in his work *Grundsätze der Policey-Wissenschaft* of 1756. In the book Justi argued that it was the responsibility of the state to promote the well-being of the state and its subjects, i.e., “common happiness” (*gemeinschaftliche Glückseligkeit*). Justi did not distinguish between the interest of the state and its subjects. Promotion of common happiness was to be achieved through issuing police law whose enforcement belonged to special police authorities. Justi included amelioration of the countryside and towns; augmentation of the population; manufactories and factories; commerce and professions; religious, moral and luxury police; issues of public safety

¹ Maier, *Staats- und Verwaltungslehre*, 1.

² Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 334–365; Maier, *Staats- und Verwaltungslehre*, 105–181.

³ Maier, *Staats- und Verwaltungslehre*, 1; Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 372–379.

such as fire safety, water supply and sewerage, criminality, and disorder all under the broad concept of police.⁴

However, only some four years later Justi had altered his views on the responsibilities of the state and the scope of police. Namely, in his book *Die Grundfeste zu der Macht und Glückseeligkeit der Staaten; oder ausführliche Vorstellung der gesamten Policey-Wissenschaft* from 1760/1761 Justi now argued that the state should not meddle too strongly in the societal life of the people. For instance, augmentation of the population should be promoted through positive means such as relaxation of the rules of marriage law. Furthermore, instead of controlling commerce and trades the state should merely concentrate on promoting the preconditions of economic life. Justi even argued that economic science (*Commerciens-Wissenschaft*) should be divided into two areas: one that deals with the state and another that deals with businessmen. Justi was also anticipating economic liberalism by arguing that the fiscal interests of the state were best advanced by promoting private economic initiative through freedom of trade.⁵

By the beginning of the nineteenth century, the idea that the state should refrain from intervening in the private sphere of its citizens – not even with the pretext of ‘welfare police’ (*Wohlfahrtspolicey*) – grew stronger. The *Rechtsstaat* ideology made demands for the separation of welfare police from ‘security police’ (*Sicherheitspolicey*) thereby limiting the scope of police. Proponents of the *Rechtsstaat* ideology also wanted to limit the jurisdictional powers that the police authorities had traditionally had in ‘police crimes’. All criminalization was to be found in the common criminal code and criminal cases were to be dealt with in regular courts. While the scope of police shrank, the tendency towards independent economic science became clearer and stronger. Eventually, police science as a wide-ranging independent discipline withered away and gave way to new disciplines – not only to national economics but also to administrative science, administrative law, and sociology.⁶

⁴ Maier, *Staats- und Verwaltungslehre*, 181–183; Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 379–380.

⁵ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 380–382; Maier, *Staats- und Verwaltungslehre*, 183–187.

⁶ Maier, *Staats- und Verwaltungslehre*, 191–258; Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 386–393; Heikki Pihlajamäki, “Ius politiae: havaintoja politiaoikeuden pirstaloitumisesta ja rikosoikeuden kehityksestä 1800-luvulla,” *Lakimies* (1999): 524–529. On the relationship between the concept of “*gute Policey*” and the security aspirations of early modern European societies, see Härter, “Security”.

Police science is considered to have been a German peculiarity. Nowhere else in Europe did police science develop into an independent academic discipline, and nowhere else in Europe was an equally extensive amount of scientific literature on police produced. The emergence of police science was linked to German state formation on the territorial level in the post-Westphalian era. The rulers of the individual territorial states began to acquire more political power, and they took the initiative to improve the 'good order and welfare' (*gute Policey*) of their states and to strengthen their territorial sovereignty. This was sought by issuing police law and developing the administrative apparatus. The role of the universities was to produce competent officials for the needs of ever increasing administrative tasks.⁷

In contrast to Germany, in France the literature concerning police remained more practical in nature. Eighteenth-century French writers contented themselves mainly with pondering adequate means to achieve *bonne police* and describing the relevant statutes without too much theoretical ambition.⁸ In France the literature on police embodied more traits of 'police law' rather than 'police science'. This was a result of the fact that the centralized state and its advanced administrative apparatus were built much earlier in the French realm than in the German states.⁹

ANTECEDENTS OF POLICE SCIENCE IN SWEDEN

As in Germany, police science also had its antecedents in Sweden. Before the eighteenth-century treatises on police science, various kinds of work that can be considered as precursors of police science were written or published in the Swedish realm. These works belong to the long-standing European tradition of mirror-for-princes literature, *Hausväter*-literature, various kinds of tractates on moral good, marital life, parenting, commerce, finances, agriculture, hunting, fishing, medicine, and the like.¹⁰ Swedish late medieval and early modern mirror-for-princes works have already been discussed above.¹¹ For instance, the fourteenth-century *Konungastýrelsen* as well as Peder Månsson's *Barnabok* both listed the

⁷ Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 366–369.

⁸ Iseli, "Bonne Police", 47–68.

⁹ Maier, *Staats- und Verwaltungslehre*, 150 fn. 228; Foucault 2004, pp. 323–326.

¹⁰ On these types of literature, see Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 334–365; Maier, *Staats- und Verwaltungslehre*, 105–181.

¹¹ See above pp. 26–33.

various fields of societal life which were to be regulated through royal ordinances. In order to promote the well-being of the state and its inhabitants, rulers were to be well informed about everything that was going on in the realm. The responsibilities of rulers included, among other things, to see that the towns were equipped with walls, that there were enough bridges over rivers, that there were enough harbours for commerce, that the towns were kept clean for the prevention of pestilence, that deserted land was farmed again, and that there were sufficient artisans in the country. These were all matters that eighteenth-century police science also included in its field of research.

In addition to these mirror-for-princes works, during the early modern period a number of works were written which dealt with the proper management of a private household, i.e., *oeconomia*. These too must be counted amongst the precursors of eighteenth-century works on police science. The aim of this sub-chapter is not to offer a comprehensive list of all these works but to give the reader a view of some of the central works in Swedish in the area.

Laurentius Petri's Œconomia Christiana

Laurentius Petri (1499–1573) is known as the first Lutheran archbishop in Sweden. His brother, Olaus Petri, was a well-known statesman, historian, and, likewise, an ardent proponent of the Swedish Reformation. In their youth, both Laurentius Petri and his brother studied in a Carmelite monastery in Örebro and later continued their studies at the University of Wittenberg, Germany. In Wittenberg, they both came under the influence of Martin Luther and his teachings. Laurentius Petri returned home in 1527. Only four years after his return, in 1531, he was consecrated as Archbishop of Sweden by the Bishop of Västerås, Petrus Magni (i.e. Peder Månsson) in Stockholm.¹²

In 1559, Laurentius Petri wrote a work called *Œconomia Christiana*. It was a book on the proper, Christian way of organizing a private household, as its title suggests.¹³ Like many contemporary Swedish works, Petri's

¹² Eric E. Yelverton, *An Archbishop of the Reformation. Laurentius Petri Nericus, Archbishop of Uppsala, 1531–73: A Study of his Liturgical Projects* (Minneapolis: Ausburg Publishing House, 1959), 1–18.

¹³ The full title of Petri's book was *Œconomia Christiana. Om Cristeligit Husholdh och huadh huario person eientligh efter gudz befolningh i huusholl tilkommer* [*Œconomia Christiana. On a Christian Household and the responsibilities that each person has according to God's commandments*].

book, too, was a truncated translation of a foreign work. The example for Petri had been a work of the same name by German reformer Justus Menius (1499–1558). Both the contents and the division of the chapters of Petri's book closely follow that of Menius' work. Only here and there has Petri made some additions to Menius' original to meet the expectations of Swedish readers. All things considered, Petri's translation is reckoned to be reasonably skilful.¹⁴

The Lutheran tone of Petri's work is evident from the first pages on. The first chapter of *Æconomia Christiana* educates the reader about Luther's two-kingdoms theory (*Zweireichelehre*); i.e., that there exist two kingdoms/governments, the heavenly and the earthly.¹⁵ The second chapter continues on the subject by asserting that the nature of the earthly kingdom is twofold; it consists of "*æconomia*, i.e. government of a private household" (*huus regerningh eller booholdh*) and of "*politia*, i.e. government of the country" (*landz regerningh*). Petri writes that both governments are based on the fourth commandment of the Decalogue. As the title indicates, the focus of Petri's book is on the former, government of a household since *æconomia* is the foundation and source for *politia*.¹⁶

After six general and introductory chapters on the purpose of marriage and the functions of a household, among other things, Petri proceeds to discuss the more concrete tasks and duties of each member of a household. The "man of the family" (*mann, husbondha*), for instance, must live according to God's will and commandments. He must not commit adultery; he must love his wife and treat her right; and he must support his wife and children through his labour. The wife (*hustru, huusmodher*), likewise, must be a God-fearing person. She is expected to give birth to children and foster them; she must also know how to behave towards her husband – be loving and obedient; she must be a good housewife and carefully manage the goods and chattels. Separate chapters are also dedicated to children's upbringing, children's duties, each one's vocation,

¹⁴ Herman Lundström, introduction to *Laurentius Petris Æconomia Christiana för första gången utgifven med inledning av Herman Lundström* (Upsala: Skrifter från reformationstiden 5, 1897), i–xiii. However, Lundström asserts that Petri's authorship should be denied altogether since his work is a mere translation.

¹⁵ Laurentius Petri, *Æconomia Christiana: Om Cristeligit Husholdh och huadh huario person eientligh efter gudz befolningh i huusholl tilkommer* (Upsala: Skrifter från reformationstiden 5, 1897 [orig. 1559]), 3–4. On Luther's two-kingdoms theory and its impact on German legal history, see Witte, *Law and Protestantism*, 87–117.

¹⁶ Laurentius Petri, *Æconomia Christiana*, 5–6.

treatment of servants, duties of servants, friendship and neighbourliness, alms, and the holy cross.¹⁷

Petri's work thus concentrates mainly on the virtues according to which the members of the household were to live and the tasks that they were to perform. The work does not include practical advice, for instance, on agriculture, animal husbandry, and like matters.

Per Brahe's Oeconomia

In 1581, one of the most remarkable statesmen of his time, Per Brahe (1520–1590), wrote a work called *Oeconomia eller Hushållsbok för ungt adelsfolk* (*Oeconomia* or a Household Book for Young Noble People).¹⁸ Brahe himself came from a noble family; his mother was a sister to Gustav Vasa. During his career, Brahe served three different kings and was already appointed a Member of the Council of the State in 1542. Later, in 1569, he received an earldom. Brahe inherited a substantial fortune and was able to maintain it throughout his life. With large estates he was one of the wealthiest men in Sweden. Brahe's *Oeconomia* reflects a humanistic ideal of nobility. The aim of the book was to instruct young noblemen how to make the qualities of an educated state official and a successful landowner meet in one and the same person.¹⁹

Brahe's work consists of two "books". The first book is about upbringing and has four parts. The message of the book is that after young noblemen have left childhood, learned the catechism and become God-fearing youths, it is time for them to complete their upbringing in order to achieve "wisdom and understanding". This completion is realized through three different things: wise men's talk, reading useful books, and travelling abroad.²⁰ On the whole, the first book is marked by a religious and grandiloquent air. Brahe's main source of inspiration seems to have been *The Book of Jesus of Sirach*, a second century B.C. Jewish scholar.²¹ Brahe also makes some general references to classical authors such as Cicero.

¹⁷ Ibid., 21–83.

¹⁸ Per Brahe, *Oeconomia eller Hushållsbok för ungt adelsfolk*, ed. Johan Granlund och Gösta Holm (Stockholm: Nordiska museets Handlingar 78, 1971) [orig. 1581]. Brahe's work was not printed until 1677, see Torsten Lagerstedt, introduction to *Oeconomia*, by Schering Rosenhane (Uppsala: På uppdrag av lärdomshistoriska samfundet utgiven av Torsten Lagerstedt, 1944), viii.

¹⁹ Johan Granlund, "Författaren och verket," in Per Brahe, *Oeconomia eller Hushållsbok för ungt adelsfolk. Utgiven och kommenterad av Johan Granlund och Gösta Holm* (Stockholm: Nordiska museets handlingar 78, 1971) ix–xxiii.

²⁰ Brahe, *Oeconomia*, 13.

²¹ Granlund, "Författaren," xxiii.

The second book of Brahe's work deals with "the doctrine and teaching on a household".²² Brahe defines a household as a "community of a man and a woman with children, servants, cattle, and a house to own and to manage".²³ The main question of the second book is how to run a household, i.e., a manorial estate in such a way that real and personal property are maintained and augmented. According to Brahe, the basis for achieving this goal was to draft a decent budget and keep the income higher than the expenses.²⁴ It was also essential to have a decent, industrious and loyal bailiff whose task was to take care of the estate while the master was away on his journeys to the court and abroad.²⁵ Compared to the first book, the second is somewhat more practical in nature. For example, it includes a calendar of all the tasks that had to be taken care of during each month of the year.²⁶

The term 'police' appears twice in Brahe's work. First, in the second part of the first book Brahe discusses the professional orientation of a nobleman. He writes that there are two possibilities, "police and warfare" (*politie och krigzbrwk*), and that one should choose according to one's talent and aspirations.²⁷ By police Brahe referred to civil administration. The second time that Brahe uses the term is in the context of a list of principal things that a nobleman should mark down or otherwise memorize while travelling abroad. The sixth point of the list says "government and police" (*regemente och politiae*).²⁸ Here, again, the term was mainly a synonym for the administrative apparatus of the state. As already suggested, however, the focus of Brahe's work was on the management of a private household rather than a state. Brahe mentions only briefly that knowledge of "how to organize a good and correct government can be found in *Aristotelem, Claudium, Ciceronem, Iohannem Bodi* and in Jörgenn Lautherbach's Book for Rulers [*Regente boken*]"²⁹

²² Brahe, *Oeconomia*, 49.

²³ *Ibid.*, 49.

²⁴ *Ibid.*, 53–70.

²⁵ *Ibid.*, 78–117.

²⁶ *Ibid.*, 128–155. A similar kind of a "household calendar" in Swedish was already published in 1503/1525 by Hans Brask (1464–1538), Bishop of Linköping.

²⁷ *Ibid.*, 13–14.

²⁸ *Ibid.*, 25.

²⁹ *Ibid.*, 16. Brahe is referring to Georg Lauterbeck's (ca. 1510–1578) *Regentenbuch* from 1557; see e.g. Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 88.

Schering Rosenhane's Oeconomia

Schering Rosenhane (1609–1663) was born into a noble and free-born family from Södermanland. Rosenhane received a classical education at the University of Uppsala and like many other young noblemen made various trips abroad – England, France, the Netherlands and Germany. Early on, he aimed for a civil servant's career in the Swedish bureaucracy. After various vicissitudes, Rosenhane's career was brought to a head in 1652 when he was ennobled and made Governor General of Stockholm. Rosenhane was also the owner of reasonably large landed property. It was common in seventeenth-century Sweden to reward higher civil servants and officers by endowing them with "land that was exempted from taxes" (*frälsejord*). As a consequence, a need for up-to-date guidebooks on management of an estate and agriculture became evident. This is probably also the reason why Rosenhane started writing his *Oeconomia* in the 1660s – only a few years before his death. Rosenhane wrote his work with the intention of benefiting his peers.³⁰

Rosenhane's work clearly belongs to the same category of household literature as Per Brahe's *Oeconomia*. Rosenhane's work is divided into three parts. The first part discusses certain key persons or members of a household, namely, the master of the house, the housewife, the bailiff, the milkmaid and the gardener. The second part of the book deals with different natures of property and their administration (e.g. the location of the farm, erecting buildings, renting land).³¹ Finally, the third part discusses agriculture: farming in different parts of Sweden and abroad; different types of soil; drainage; cultivating; ploughing; different kinds of grain; growing of hay; and the like. The majority of the work was dedicated to gardening: choice of land, planting, description of various garden plants, and so on.³² Rosenhane himself saw that the matters discussed in the book belonged to "*oeconomiam practicam*".³³

³⁰ The work was never finished due to Rosenhane's unexpected death, and it was only published as late as 1944. Rosenhane's manuscript did not have a title but the word *oeconomia* figured in the preface. Lagerstedt, introduction, vii–xiii.

³¹ Schering Rosenhane, *Oeconomia* (Uppsala: På uppdrag av lärdomshistoriska samfundet utgiven av Torsten Lagerstedt, 1944 [orig. 1660s]), 35–52.

³² Ibid., 53–168. In this category of practical manuals on agriculture must also be included a book from Rosenhane's contemporary, namely Johan Risingh's *Een Land-Book* from 1671.

³³ Ibid., 7.

Anders Bachmanson's Arcana Oeconomiae et Commercii

Anders Bachmanson (1697–1772)³⁴ was the son of the mayor of a small town called Sundsvall. In his youth, he spent time in England where he became acquainted with mercantile ideas. Some years after his return home, in 1726, Bachmanson was elected as a representative of the estate of burgesses in the Diet. Early on, Bachmanson was also engaged in trade; later in his career he was appointed a member of the Commercial College.³⁵

In 1730, Bachmanson wrote a work called, *Arcana Oeconomiae et Commercii*.³⁶ Compared to the above-mentioned works on 'householding', i.e. *oeconomia*, Bachmanson's book represents a clear shift of focus. While the writings of Petri, Brahe and Rosenhane were almost exclusively centred on agriculture and private households, Bachmanson was chiefly interested in trade, manufacturing industry, fishery, and the like, as well as state regulation of these livelihoods. Bachmanson had wanted to write his book in order to "educate about the right nature of trade so that people would be happy and well-off". The aim of the book was to show further how the Swedish state would become powerful in trade, break away from the "bloodsucking of foreign manufactories", and to make the fatherland flourish with the help of sciences.³⁷

Bachmanson's career in Sweden coincided with a period of intense economic regulation and political debate on economics. During the 1720s and 1730s, cameral and mercantile ideas broke through in Sweden.³⁸ Bachmanson took an active part in the debate by writing several memoranda for the Diet. In fact, his *Arcana Oeconomiae* consists in a large degree of those memoranda. Even though Bachmanson later in his life became an exponent of rather liberal ideas, *Arcana Oeconomiae* still clearly reflects the doctrines of "orthodox mercantilism".³⁹ For instance, Bachmanson's mercantile attitude appeared in his views on the Swedish 'staple town

³⁴ Bachmanson was ennobled in 1743 and assumed the name Nordencrantz.

³⁵ Lars Herlitz, "Det civila samhället och Sveriges underutveckling: Anders Bachmanson från Arcana till Anatomia," *Scandia* 57 (1991): 283–284.

³⁶ Andreas Bachmanson, *Arcana Oeconomiae et Commercii, Eller Handelens och Hushåldnings-Wärkets Hemligheter* (1730). [Secrets of Trade and Householding].

³⁷ Ibid., introduction.

³⁸ Lars Magnusson, *An Economic History of Sweden* (London and New York: Routledge Explorations in Economic History, 2000), 57–67.

³⁹ Herlitz, "Civila samhället," 284.

system' (*stapelstadssystem*). Bachmanson strongly opposed any attempt to abolish the trading privileges of towns.⁴⁰

In *Arcana Oeconomiae* Bachmanson claimed that an essential for good trade was "the constitution of the state", i.e. the laws, the education of the people, the people's way of life and the principles that the people followed.⁴¹ For instance, if a nation concentrated on warfare, as Sweden had done, its citizens were likely to strive for titles, public offices and personal honour, instead of pursuing economic wealth through trade, commerce and manufacturing. In order for Sweden to move over from a "martial ethos" (*martialiske andan*) to a "civil mind" (*borgerliga håg*), the state had to ensure that people are sufficiently occupied with trade, commerce and manufacturing. The legislator should impose primogeniture so that the capital of the great merchant and manufacturing families would not split and make the business impossible to continue. Schools and academies for economic studies should be established. Bachmanson's views were, to a great extent, influenced by such English thinkers of political arithmetic as Charles Davenant and Bernard Mandeville.⁴²

The concept of police appears in Bachmanson's book only by implication and in passing. For example, when Bachmanson draws a parallel between the natural and the political body, the word 'political' is printed in a specific way, namely in the form "politisk".⁴³ Later in the text, Bachmanson reports on a Dutch practice of organizing festivals in order to attract foreign peoples' attention and to promote trade. He writes that this "policy" (*politie practiserad, politique*) should also be introduced as a maxim in Sweden.⁴⁴

⁴⁰ Birgitta Ericsson, "Debatten på 1720-talet om det svenska stadsystemet: Idéer och aktörer," in *Sakta vi gå genom stan: Stadshistoriska studier tillägnade Lars Nilsson den 31/5 2005*, ed. Mats Berglund (Stockholm: Stockholmia förlag, 2005), 106–114.

⁴¹ Bachmanson, *Arcana Oeconomiae et Commercii*, introduction.

⁴² Ibid., 76–99, 146–147. About Bachmanson's English influences, see Herlitz, "Civila samhället." The title of Bachmanson's book referred to a special type of literature, the *Arcana*-literature, which was somewhat dominant in Germany during the seventeenth century. *Arcana imperii* literature consisted mainly of "secret" instructions for rulers about the right way to govern their state. The roots of this type of literature lay in the writings of Tacitus and Machiavelli. *Arcana*-literature was quite empirical in nature, and 'operational' maxims and principles were usually derived from numerous historical examples. See Michael Stolleis, *Arcana imperii und Ratio status: Bemerkungen zur politischen Theorie des frühen 17. Jahrhunderts* (Göttingen: Vandenhoeck & Ruprecht, 1980).

⁴³ Bachmanson, *Arcana Oeconomiae et Commercii*, introduction. It seems to have been typical of the period to separate all foreign loan-words from domestic ones by printing them in lettering instead of the normal Gothic font.

⁴⁴ Ibid., 230. The word 'police' also appears in the title of Andreas Bachmanson's later manuscript which was, however, never published. The title of the manuscript was

SWEDISH EIGHTEENTH-CENTURY TREATISES ON POLICE SCIENCE

Although police science as an independent academic discipline never emerged in Sweden, there exist, however, at least two eighteenth-century Swedish texts that can be considered as systematic presentations of 'police science' (Swedish *politivetenskap*). The first is Christian König's (1678–1762) book, *Lärdoms-Öfning. Fjerde Tomen. Utgående Lagfarenheten i Politie-mål* (Jurisprudential Exercises in Police Affairs), published in 1746.⁴⁵ König was a chief judge (*lagman*) within the Wästmanland and Stora Kopparbergslän district and his book was the fourth part of his eleven-part encyclopedic work on ethics, jurisprudence and political science published in 1745–1751.⁴⁶ The second work is Anders Berch's (1711–1774) book, *Inledning til Almänna Hushållningen, Innefattande Grunden Til Politie, Oeconomie och Cameral Wetenskaperne* (Introduction to Public Householding, Including the Foundation for Police, Economy and Cameral Sciences), published in the following year, in 1747.⁴⁷ Unlike König, Berch was an academic. In 1741, he had been appointed Professor of Economics at the University of Uppsala. The post was the first of its kind in Sweden. Interestingly enough, König had been one of Berch's most serious rivals for the office.⁴⁸

Next, the essential parts of König's and Berch's works will be discussed. I am particularly interested in the intellectual influence that foreign writers, chiefly the Frenchman Nicolas Delamare, had on König and Berch. In this regard, I will, for example, compare both König's and Berch's definitions of police to that of Delamare's. However, in order to establish Delamare's influence on König and Berch, we must first turn briefly to Delamare's *magnum opus*.

Nicolas Delamare's Traité de la Police as a source of inspiration

Nicolas Delamare (1639–1723) was a jurist who worked as *commissaire* at the Châtelet de Paris. Delamare's massive work *Traité de la police* consists

Anatomia et scrutamen status politiae et oeconomiae svecæ. See Herlitz, "Civila samhället," 298–317.

⁴⁵ Christian König, *Lärdoms-Öfning. Fjerde Tomen. Utgående Lagfarenheten i Politie-mål* (Stockholm: 1746).

⁴⁶ See Björne, *Patrioter och Institutionallister*, 80–82.

⁴⁷ Anders Berch, *Inledning til Almänna Hushållningen, Innefattande Grunden Til Politie, Oeconomie och Cameral Wetenskaperne* (Stockholm: 1747).

⁴⁸ Sven-Eric Liedman, *Den synliga handen: Anders Berch och ekonomiämnena vid 1700-talets svenska universitet* (Stockholm: Arbetarkultur, 1986), 62–69. Both König's and Berch's works have previously been analysed by Pär Frohnert. See Frohnert, "Policeybegriff und Policeygesetzgebung," 560–568.

of four volumes of which he personally wrote the first three. The fourth was put together and published after Delamare's death by his colleague Lecler du Brillet in 1738.⁴⁹ All four volumes contain a historical description of the development of different areas of police and extensive compilations of French police statutes from the thirteenth century onwards. Delamare's work was widely used, especially among jurists in various tribunals in Paris, because the capital city had served as a model for the description in the text of the system of police, its officials and functions. Furthermore, a large part of the statutes were enacted only for Paris. *Traité de la police* was to serve as an example for later police literature in France.⁵⁰

Delamare states in the first pages of his work that the matters that he deals with belong to the field of public law (*droit public*).⁵¹ Delamare's statement thus supports the above-mentioned assertion that in France police was never considered as an independent discipline but primarily as a branch of law. Delamare writes that police laws have but one object, 'the common good of the society'. According to Delamare, the happiness of man depended on three different "goods" (*biens*): 1) the goods of the mind or soul (*âme*); 2) the goods of the body; 3) the goods of fortune. The task of the state administration was to manage these three different goods through police ordinances and authorities. In respect of this task, Delamare divided the system of police into eleven separate fields. The two first fields, religion (1) and mores (2), covered the goods of the soul. In relation to religion, for instance, it was not a question of regulating individuals' inner beliefs. Instead, the function of police was to see that religion's "*culte extérieur*" occurred in accordance with the laws. In the field of mores police statutes fought against luxury, gambling, obscenity and witchcraft. The next four fields, health (3), provisions (*police des vivres*) (4), buildings, streets, public roads, postal services and public transportation (*police de la voirie*) (5), and public safety (6), all dealt with the goods of the body. Sciences and liberal arts (7) formed the seventh field of police which affected all three categories of goods. Finally, the last four fields of

⁴⁹ Nicolas Delamare, *Traité de la police, où l'on trouvera l'histoire de son établissement, les fonctions et les prerogatives de ses magistrats; toutes les loix et tous les règlements qui la concernent: on y a joint une description historique et topographique de Paris & huit Plans gravez son ancien État, & ses divers accroissemens; avec une recueil de tout les statuts et règlements des six corps des marchands & de toutes les communautés des arts & métiers. Tomes I–IV* (Paris: 1705–1738).

⁵⁰ Iseli, "Bonne Police", 57–58.

⁵¹ Delamare, *Traité de la police... Tome I*, preface.

police, commerce (8), manufacturing (9), domestic servants and itinerant workforce (10), and poor relief (11), concerned the goods of fortune.⁵²

All chapters of the four volumes of Delamare's work follow more or less the same structure. First, Delamare begins with definition and division of the subject. In the case of fishery, for instance, Delamare classifies fish according to their goodness, taste and effects on health.⁵³ The general presentation of the subject is usually followed by a historical description that reaches all the way back to antiquity. Contemporary practices of different foreign countries, e.g. England and Holland, are of course reported on. Finally, Delamare presents all the maxims and principles that French police is based on, and also incorporates all the relevant past and present French police statutes. Delamare emphasizes that his aim is not to give a simple compilation of statutes, but to report their history. "Because there is nothing new under the sun, [...] it is mainly from past events that we have to draw the rules of prudence and conduct for the present and the future". Police "as a part of public law thus consists more of matters of government than of jurisdiction in civil cases; it is in its nature to proportion itself to the circumstances of the times".⁵⁴

Christian König's Lagfarenheten i Politie-mål

Christian König's work, *Lärdoms-Öfning. Utgående Lagfarenheten i Politie-mål* from 1746 is a fairly systematic presentation of its subject. König starts off with definitions of police and police science. König writes that the concept of "police" (*politien*) refers to "everything that belongs to improvement of the country and prevention of those things that can hinder the achievement of this healthy objective".⁵⁵ Police science was hence a "science that reveals that in which way the country's public householding is set to due condition and order".⁵⁶

König complains that this useful science has traditionally been neglected at the universities because "everyday and corporeal matters are not thought to be worth studying". Instead, academic education has

⁵² Ibid., preface. Delamare's *Traité de la police* only covers the first five fields of police.

⁵³ Ibid. *Tome III*, 1–28.

⁵⁴ Ibid. *Tome I*, preface.

⁵⁵ König, *Lagfarenheten i Politie-mål*, 1 fn. 1. "Härunder [Politien] förstås alt hwad som länder til et lands förkofring och afwärfjande af det, som kan wara til hinders i et sådant hälsosamt ändamål."

⁵⁶ Ibid., 1–2. "*Politien* är en wetenskap, som underrättar, på hwad sätt Landets allmänna husholning sättes i behörigt skick och ordning, [...]".

focused mainly on matters of reason. König argues that “God has nevertheless created man so that he would live a good life both mentally and physically”. Man himself has to see that he does so, and this quest cannot be accomplished without sufficient knowledge and experience of societal life. According to König, “police science is thus a practical science, *scientia practica*, in which general principles are reduced from endless particulars of diverse nature”. This is also the reason why König resorts to history and statutes in his argumentation. Historical examples and statutes reveal what obstacles the antecedent legislators have tried to tackle, and what effects the different statutes have had. While introducing the various principles of police, König also lists relevant Swedish statutes. König’s historical examples are presented mainly in the footnotes, and they reach all the way back to antiquity. Throughout his work, König frequently refers (on the level of footnotes) to classical authors – Xenophon, Cicero, Livy, Seneca and Plutarch, among others.⁵⁷

König writes explicitly in the foreword to his work that he has exploited both domestic and foreign statutes as well as authors for the benefit of his own treatise. For instance, in respect to the parts of his book that concern Germany, he had used Seckendorff’s famous work *Fürsten-stat*.⁵⁸ Furthermore, in the sections that deal with the English experience, König reports having used Charles Davenant’s works *To make a people gainer in the balance of trade* and *Upon public revenues*.⁵⁹ Nevertheless, König mentions that “his main source has been La Marre’s work *Recueil des Règlements de Police de la Ville de Paris i IV Volumer*”.⁶⁰ However, there seems to be no indication that such a writer or work ever existed.⁶¹ It is

⁵⁷ Ibid., introduction. Bachmanson had also complained that “so little has been written about sciences that substantially benefit and serve the country and people in trade and householding: [...] to know what makes people happy, does not require metaphysics.” Bachmanson, *Arcana Oeconomiae et Commercii*, introduction.

⁵⁸ König, *Lagfarenheten i Politie-mål*, introduction. Veit Ludwig von Seckendorff’s (1626–1692) book, *Teutscher Fürstenstaat* from 1656, was one of the most prominent works of its own time, and it was long studied at various universities in Germany. See e.g. Maier, *Staats- und Verwaltungslehre*, 139–151; Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 352–354.

⁵⁹ König, *Lagfarenheten i Politie-mål*, introduction. The full titles of Davenant’s two books are, *An Essay upon the Probable Methods of Making a People Gainers in the Balance of Trade* (1699), and, *Discourses on the Public Revenues and on the Trade of England, Parts I–II* (1698). On these works, see e.g. Kustaa Multamäki, *Towards Great Britain: Commerce & Conquest in the Thought of Algernon Sidney and Charles Davenant* (Helsinki: Finnish Academy of Science and Letters, 1999).

⁶⁰ König, *Lagfarenheten i Politie-mål*, introduction.

⁶¹ See e.g. Iseli, “*Bonne Police*”; Napoli 2003. Later in the book König writes the author’s name in the form “Le Mains”. See König, *Lagfarenheten i Politie-mål*, 45.

more likely, instead, that König is in fact referring to Nicolas Delamare's prominent work *Traité de la police* (in four volumes) which also included, as already mentioned, a comprehensive collection of French police statutes. In addition, König's references to 'La Marre' largely correspond by their content to Delamare's text as will be shown below.

In König's opinion, police was a concern of the legislative authority. It was the obligation of the legislator to see that good mores and good order prevailed in civil society, i.e. the state.⁶² The task of police science was to help the legislator to pass appropriate statutes. König saw that what was once thought to have been useful could at other times be totally ill fitting. That is also why "the statutes must be alterable".⁶³ König's conception of the alterable nature of police statutes reflected a voluntaristic understanding of legal norms.

König also distinguished between police science and "jurisprudence" (*lagfarenhet*). König wrote, for instance, that knowledge concerning the usefulness, establishment and maintenance of manufactories belonged to political science and police. Nevertheless, since these kinds of matters are regulated by statutes and judges must pass judgments in that regard, it was appropriate to deal with these matters together with jurisprudence.⁶⁴ König's work was, after all, a text on "jurisprudential exercises in police affairs". The task of a judge was, however, only to apply statutes to individual cases, "and not to go any further".⁶⁵

Like Delamare, König divided police into several fields. König listed the nine objects of his study as follows: the number of inhabitants (*inbyggare*) in the realm (1), care of the morality of the inhabitants (2), care of the livelihood of the inhabitants (3), health (4), amenities (*beqwämlichkeit*) (5), trade and manufactories (6), care of the poor and reform of the disobedient (7), the monetary institution (*mynt och wexelwäsendet*) (8), and administration of public revenues (9).⁶⁶ Perhaps one of the most essential differences in relation to Delamare's division was that König counted the monetary institution as well as administration of public revenues to be a part of police. Furthermore, König's list did not include religion. König

⁶² During "The Age of Freedom" (1718–1772), in Sweden the concepts of civil society (*borgerligt samhälle*) and state (*stat*) were considered to be more or less synonymous. See e.g. Kari Saastamoinen, "Johdatus poliittisiin käsitteisiin uuden ajan alun Ruotsissa," in *Käsitteet liikkeessä: Suomen poliittisen kulttuurin käsitehistoria*, ed. Matti Hyvärinen et al. (Tampere: Vastapaino, 2003), 43.

⁶³ König, *Lagfarenheten i Politie-mål*, introduction, 1–4.

⁶⁴ *Ibid.*, 96.

⁶⁵ *Ibid.*, introduction.

⁶⁶ *Ibid.*, 4.

explained that he had written about freedom of religion in the previous, third volume.⁶⁷ Other than these disparities, König discusses to a great extent the same matters as Delamare. In fact, he makes several references to 'La Marre's' (i.e. Delamare's) text. For instance, his views on regulation of the sale of grain,⁶⁸ regulation of the sale of cattle and meat,⁶⁹ regulation of butchery,⁷⁰ and regulation of fishery⁷¹ all more or less follow Delamare's example, even though König's work was nowhere near as extensive as Delamare's.

Anders Berch's Inledning till Almänna Hushållningen

Contrary to König, Berch was unambiguous when confessing his debt to Delamare's work. Berch wrote that as to the sections of his book that concern police, he cannot help mentioning Delamare's *Traité de la police* as an "ever current" source.⁷²

As the title of Berch's work, *Inledning til Almänna Hushållningen, Innefattande Grunden Til Politie, Oeconomie och Cameral Wetenskaperne*, indicates, he considered police science as a part of the "public householding" (*almänna hushållningen*) of the state. According to Berch, the objective of public householding was the "happiness of the society" (*borgerliga sällheten*).⁷³ The concept of public householding seems to have been a general concept of the time that was used to refer to the governance of the state in general.⁷⁴

Berch regarded householding also as a science, i.e., "householding science" (*hushållnings wetenskapen*). According to Berch, householding

⁶⁷ Ibid., 14.

⁶⁸ Ibid., 45–46, 55–56. See Delamare, *Traité de la police... Tome II*, 55–89.

⁶⁹ König, *Lagfarenheten i Politie-mål*, 63–64. See Delamare, *Traité de la police... Tome II*, 537–553.

⁷⁰ König, *Lagfarenheten i Politie-mål*, 64–65. See Delamare, *Traité de la police... Tome II*, 554–653.

⁷¹ König, *Lagfarenheten i Politie-mål*, 73. See Delamare, *Traité de la police... Tome III*, 32–47.

⁷² Berch, *Almänna Hushållningen*, introduction.

⁷³ [Introduction to Public Householding, Including the Foundation for Police, Economy and Cameral Sciences]. The pseudo-English form of "public householding" is used here instead of the form "public household" in order to accentuate the active dimension of the Swedish word "*hushållning*".

⁷⁴ König also used the concept of public householding in his work. As mentioned above, he wrote that "police is a science that reveals the way in which the country's public householding is set into due condition and order". See König, *Almänna Hushållningen*, 1–2. The concept appeared, too, in the title of Bachmanson's book: *Arcana Oeconomiae et Commercii, Eller Handelens och Hushållnings-Wärkets Hemligheter*.

science was a practical science, and its “basic truths are derived from other sciences, experience, and the nature of things”. Berch draws a clear distinction between householding science and political science, on the one hand, and between householding science and jurisprudence, on the other. Furthermore, householding science is divided into three separate sub-disciplines: police, economic, and cameral sciences. Police science studies the way in which society is kept in order. Economics, for its part, is about the rules that concern the means through which private persons accumulate their fortune. Finally, cameral science deals with public revenues. Berch wilfully separated himself from the older tradition by writing that “in many texts (Delamare, Seckendorf, von Schrödern, etc.) all three fields have been addressed together either under the title of Economy, Finance or Police; but as this study will show, they can and must be discussed separately.”⁷⁵

Berch's decision to treat these three disciplines separately was influenced by the German scholar, Justus Christoph Dithmar (1677–1745), whose book Berch mentions as one of his sources.⁷⁶ Indeed, Dithmar separated economic, police and cameral sciences from each other. He wrote that “economics is a science that teaches how through lawful means of livelihood and property the striving after earthly happiness is achieved”. Police science, for its part, teaches how both the inner and outer constitution of a country with its aim of public “happiness” (*Glückseligkeit*) is kept in good condition and order. Finally, cameral science teaches how the public revenues are managed, augmented and used for maintaining the public constitution.⁷⁷ Some scholars have argued that the division between economic, police and cameral, which was to last well into the nineteenth century in Germany, was in fact Dithmar's invention.⁷⁸

Although Berch owes his division of disciplines to Dithmar, Berch's conception of police science proper seems to a great extent to follow the example set by Delamare. In accordance with Delamare, Berch writes that the happiness of civil society consists of three kinds of goods, “the goods of the mind, body and fortune” (*sinnets, kroppets och lyckones häfwor*), and that these were all the concern of “police” (*politien*).⁷⁹ Police took

⁷⁵ Berch, *Almänna Hushållningen*, 1–14 (quotation from pp. 13–14).

⁷⁶ Ibid., introduction; See also Frohnert, “Policeybegriff und Policeygesetzgebung,” 565.

⁷⁷ Justus Christoph Dithmar, *Einleitung in die Oeconomische, Policei- und Kameral-Wissenschaften* (Frankfurth an der Oder: 1745), 2–7 (quotation from p. 2).

⁷⁸ See e.g. Maier, *Staats- und Verwaltungslehre*, 148 fn. 220, 179 fn. 352.

⁷⁹ Berch, *Almänna Hushållningen*, 23–24.

care of the goods of the mind by organizing and maintaining the church service, educational system, and human action based on reason and will. Berch stated that although “*cultus Dei internus*” was everyone’s own business, it was a task of police to take care of “*cultus Dei externus*”. This meant, for instance, that the service should be organized during certain days at given places.⁸⁰ Education comprised the education of both mind and body. Because mind manifested itself as acts of reason as well as will, Berch wanted to discuss them separately. In the chapter on education in the matters of reason Berch discussed, among other things, schools and universities. In relation to acts of will, Berch mainly dealt with luxury, gambling and unchastity. He emphasised that police concerned only “outward decency”, the rest fell into the sphere of moral philosophy.⁸¹

In the goods of the body Berch included health, provisions, clothing and housing. The goods of fortune consisted of public safety and public facilities (e.g. inns, transport, postal services, poor relief). Unlike Delamare, Berch did not count means of livelihood, e.g. agriculture, trade, manufacturing, as parts of the goods of fortune. Instead, he dealt with these within the boundaries of economic science.⁸² Nor did Berch’s book include references to classical literature or police statutes as did Delamare’s and König’s. Otherwise Berch seems to have followed both Delamare and Dithmar in the material axioms of police science. For instance, the chapters on population and health in Berch’s book are consistent with the corresponding chapters in Dithmar’s text.⁸³ The chapter on buildings, streets and sanitation, on the other hand, seems to have been largely influenced by the fourth volume of Delamare’s massive work.⁸⁴

SUMMARY

Regardless of the fact that police science never achieved the academic status it had achieved in Germany, at least two more or less systematic texts on police science appeared in Sweden during the eighteenth century. The two Swedish authors, König and Berch, seem to have been reasonably well informed about continental tendencies. Both König’s and Berch’s books

⁸⁰ Ibid., 43.

⁸¹ Ibid., 56–75.

⁸² Ibid., 23–24, 127–146.

⁸³ Ibid., 30–40, 76–92; Dithmar, *Oeconomische, Policei- und Kameral-Wissenschaften*, 136–138, 153–158.

⁸⁴ Berch, *Almänna Hushållningen*, 106–127; Delamare, *Traité de la police . . . Tome IV*.

were in many respects influenced by Delamare's *magnum opus*. König seems to have taken Delamare's division of the fields of police as a model to follow, making few alterations by excluding religion and including matters of finance. Furthermore, König listed relevant police statutes and made frequent references to classical authors, as did Delamare. König also explicitly referred to Delamare's work on several occasions. Berch, too, used Delamare's division as a starting point for his own categorization of the field of police. However, Berch left means of livelihood outside the sphere of police science. According to him, agriculture, trade, manufacturing, and the like, were all concerns of economics.

The key difference between König and Berch, on the one hand, and Delamare, on the other, is that the two first-mentioned authors perceived police as an independent discipline, unlike their French model. For Delamare, police was 'just' a part of public law. For König and Berch, police science was instead a practical science. They were both clear in divorcing police science, for example, from jurisprudence. Furthermore, Berch's conception of police science was more subtle than that of König's. In accordance with Dithmar, Berch separated police science from economics and cameral science. Berch's notion was thus also more modern.⁸⁵

Although König and Berch were writing about a 'science', it must be kept in mind that their conceptions did not yet fulfil the criteria of nineteenth-century conceptions of science – i.e. science as an independent, logical and closed system. Hans Maier argues that police science in eighteenth-century Germany can only be understood against the background of *Polizeigesetzgebung* of the territorial principalities. Police science was intertwined with police legislation in two important ways. On the one hand, police science should be viewed as a commentary of the various police orders and individual ordinances that were issued. On the other hand, police science should also be seen as an attempt to offer the legislative authority a political programme that could be implemented through police ordinances, i.e., a scientific legitimation for the political authority.⁸⁶ In France there was also a close connection between literature on police and different police practices.⁸⁷

The link between police science and legislative authority is also evident in the works of König and Berch. König even wrote explicitly that police

⁸⁵ See e.g. Stolleis, *Geschichte des öffentlichen Rechts in Deutschland*, 377–379.

⁸⁶ Maier, *Staats- und Verwaltungslehre*, 23–24, 90.

⁸⁷ Iseli, "Bonne Police", 309–315.

science is “a concern of the legislative authority”.⁸⁸ While listing the various other sciences that were helpful for householding science (including police science), Berch, for his part, stated that all the representatives of the different disciplines should come together and ponder together certain problems from their own perspectives in order to achieve the common goal. He continued that

[w]hat great benefit would such a society achieve. [...] In this way their knowledge and thoughts would not be trapped within books, but could be implemented by the lawgiver.⁸⁹

In Sweden, too, police science was thus seen as “a doctrine of lawgiving [*Gesetzgebungslehre*], its means, possibilities and limits”.⁹⁰ However, the division of disciplines made by Berch, i.e., between police, economic and cameral sciences, already anticipated the dissolution of police science as a general science. The division also indicated that the period of a broad conception of police was about to end. As noted, this process was not followed through until the nineteenth century when the *Rechtsstaat* ideology really broke through.

⁸⁸ König, *Almänna Hushållningen*, 1–2. “Politien är en wetenskap, som underrättar, på hwad sätt Landes allmänna husholning sättes i behörigt skick och ordning, och som den grundas på discipline och inseende, är den en del af den lagstiftande myndigheten.”

⁸⁹ Berch, *Almänna Hushållningen*, 21.

⁹⁰ Maier, *Staats- und Verwaltungslehre*, 28.

CHAPTER SIX

CONCLUSIONS

This study belongs to a growing group of studies on an early modern phenomenon called 'police' (Swedish *politie*, Germ. *Policey*, Fr. *police*). In early modern parlance the term police was used to refer to good societal order. The term also appeared in imperial, royal and municipal ordinances as well as in the names of special authorities in charge of maintaining 'good police', i.e., good order. Later, during the eighteenth century, even a separate academic discipline called 'police science' (*Policeywissenschaft*) emerged in Germany. Indeed, during the past two decades, research on early modern police has become a popular topic in continental historiography. Research has been done on different aspects of police. While earlier studies concentrated perhaps more on the history of police science and police legislation, more recent scholarship has been interested in the implementation and enforcement of police ordinances at local level as well as the actual practices of various police authorities. As a result, early modern police ordinances and practices are now seen as a communicative space where central authorities and local communities tried to promote their own as well as their mutual interests and goals.

While the origins of police legislation lay in the government of medieval municipalities, by the sixteenth century the issuing of police ordinances came primarily to be seen as a task of the ruler although the early modern cities, especially in Germany, still continued to issue police ordinances concerning life in the city. Rulers were no longer seen simply as guardians of the peace and protectors of the law but also as heads of states responsible for 'proactive' promotion of *utilitas publica*, i.e., the common good. Instead of simply being in charge of the administration of justice, rulers assumed new tasks; they were now responsible for ensuring that, for instance, the prerequisites for commerce existed in the country, that natural resources were put to best possible use and, above all, that good order and security prevailed in the realm. As discussed in Chapter II this novel view of kingship and the elementary legislative theory it entailed were not unknown in late medieval and early modern Swedish political theory either even though the few existing Swedish works were mainly translations of works of Continental thinkers such as Giles of Rome and Erasmus of Rotterdam.

The object of this study has been royal police ordinances issued in the Swedish realm between 1523 and 1718. It was first asked, what areas of societal life were regulated in early modern police ordinances, and to what extent did police ordinances regulate the same areas of societal life as were regulated in the medieval law codes? To answer these questions police ordinances were classified according to their subject matter. This classification followed the categorization adopted in the research project "Policeyordnungen der frühen Neuzeit" initiated in the *Max-Planck-Institut für europäische Rechtsgeschichte* in 1992. The main categories were 1) Societal and Social Order, Religion; 2) Public Safety and Order; 3) Poor Relief, Public Health, Education and Schooling, Culture; 4) Economic System, Professions; and 5) Land Division, Public Construction, Real Estate, Public Institutions.

Concerning the first research period of 1523–1611, the empirical material included 293 ordinances which, in turn, regulated a total of 416 police matters. Most of these matters (66 %) concerned the economic system and professions, i.e., the fourth main category. Police ordinances dealt with such issues as trading rights, price controls, export bans, customs duties and excises, and inns and taverns. The second biggest main group was matters of public safety and order with 16 % of all police matters. Within this main group the biggest single concern was the continuous unlawful demands for transportation and hospitality made by the nobility on the common people. In comparison to the medieval law codes, i.e., the 1442 Law of the Land as well as the 1350s Town Law, the majority of all police ordinances of the first research period regulated issues that were already regulated in those codes. Bans on illegal trade in the countryside, prohibitions of unlawful demands for hospitality and transportation, orders to build taverns, criminalization of adultery and other sexual crimes, orders to set up hop gardens, regulations on hunting, prohibitions on cutting down trees, orders to build roads, restrictions on the number of wedding and funeral guests, provisions on proper fair times, and regulations on correct weights and measures were all issues that were touched upon in the provisions of the medieval codes.

Consequently, it was claimed that sixteenth-century police ordinances should mostly be seen as 'executive orders' upholding the medieval laws rather than as creating new law. Of course, some ordinances did introduce new law due to new societal circumstances. For instance, the Swedish Reformation caused new problems that needed to be solved through the issue of royal police ordinances. Numerous ordinances on the value of money were also given. The value of money was an object of constant

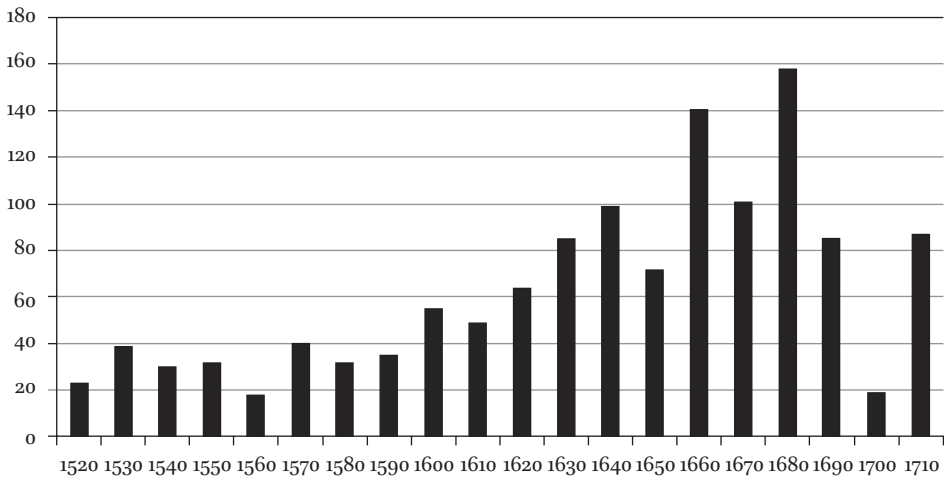


Chart 3: Police Ordinances in the Four Compilations
Between 1523–1718 (n=1 236)

reregulation and therefore it was not dealt with in the medieval law codes. Even though sixteenth-century royal police ordinances were mostly enforcing old medieval law, issuing police ordinances nevertheless benefited rulers in their attempt both to strengthen their law-giving powers and to monopolize the criminal justice system.

The number of royal police ordinances increased significantly during the second research period. In regard to the period between 1612 and 1718, the four compilations included 943 ordinances regulating a total of 1 013 police matters. However, no significant change took place in regard to the percentage contents of the main groups of police matters. Matters concerning the economic system and professions still formed the biggest group with 64 %. Matters of public safety and order were regulated in 15 % of ordinances. Issues of societal and social order were addressed in 10 % of ordinances. Land division, public construction, real estate and public institutions were the topic of 7 % of ordinances. Only 4 % dealt with poor relief, public health, education and schooling, and culture. The Swedish case corresponds to that of the German territories where commerce and professions formed by far the most important field of regulation.¹

¹ See Härter, "Edition," 140.

Although such issues as trading rights, control of prices, bans on export, customs duties and excises were still regulated in ordinances concerning the economic system and professions, the seventeenth century introduced a whole new set of issues. The expansion and internationalization of Swedish economic life gave birth to new regulation. Social institutions such as trading companies, manufactories and banks were all established through police ordinances, mainly through royal privileges. Furthermore, various professions in different fields of commerce and industry received regulations, for instance in the field of mining. Development of the state administrative system is also clearly visible in the ordinances. Numerous ordinances on new central authorities and their administrative tasks were given during the second research period. These were all issues that were not addressed in the medieval Law of the Land or Town Law. Consequently, seventeenth-century royal police ordinances were longer simply royal orders enforcing the provisions of medieval law codes. Instead, they had also become a means of giving new law and of actively changing early modern Swedish society.

It must be kept in mind, of course, that the change was not abrupt and the older characteristic of police ordinances as enforcing medieval law still continued to play a role well into the seventeenth century. This renders the eighteenth-century notion of the nature of police legislation somewhat inaccurate. As already mentioned, the drafters of the 1734 Law of the Realm did not want to include in the new law code matters that were dealt in police and economy ordinances because they were “more prone to change”. However, this study shows that in the sixteenth century and partly even in the seventeenth century police ordinances still formed a sort of a continuum with the old medieval Swedish law. Police ordinances addressed the same issues that for centuries had already been addressed in the medieval law. Still in the sixteenth and seventeenth centuries, no categorical distinction was made between older medieval law and police ordinances. The differentiation was only an eighteenth-century invention.

In fact, it has been claimed in later German historiography that the older interpretation of the medieval community based statute law of towns and the early modern police legislation of rulers as being two different historical ideal types of normative texts is misleading. Instead, in German territories police ordinances gradually evolved from ‘municipal statute law’ (*städtisches Statutarrecht*). However, due to changes in society, which took place in the late Middle Ages and early modern period, the old statute law could no longer be used to regulate life in the cities. New

societal phenomena such as population growth, expansion of commerce, increased social conflicts, and the Reformation rendered the old statutes useless. New police ordinances simply had to be given in order to tackle these and other new problems. Moreover, the argumentation of police legislation started to differ from that of the older statute law. Eventually, this led to the gradual emergence of the modern understanding of legislation.² In this regard, developments with early modern Swedish royal police ordinances corresponded to the situation in German cities. Of course, Swedish early modern cities – in contrast with cities in Continental Europe – never assumed the status where they could have issued police ordinances altogether independently of the ruler. Autonomous city states never existed in Sweden.

In regard to the second research question, i.e., how was issuing police ordinances legitimated, the justificatory arguments of sixteenth-century police ordinances were divided into two themes in the study, namely, political arguments and religious arguments. Of course, these two themes were intertwined in the preambles and provisions of the ordinances but this division was followed for analytical purposes. This made it possible to discern alterations within a single justificatory theme and also to detect altogether new ones. In regard to the political reasoning of sixteenth-century ordinances, two main arguments were utilized: 1) the benefit of the realm and its inhabitants and 2) good order. According to contemporary political theory, God had appointed kings to their throne and it fell upon their royal office to attend to the well-being of their subjects and the whole realm. All royal legislation – be it for prevention of criminality or promotion of commerce – was given for the benefit of the realm and its inhabitants. From the middle of the sixteenth century onwards, ‘good order’ or ‘good police’ (*god politie*) also began to be used as legitimation for ordinances. This order was still conceived as a moral-religious order preordained by God. As to the religious argumentation, one argument rose above others: fear of the wrath of God. It was argued in the ordinances that if people would not abide by the law, God would send his torments and plagues over the Swedish realm and its people. Finally, the ordinances included some legal argumentation – although to a lesser degree.

² Karl Härter, “Statut und Policeyordnung: Entwicklung und Verhältnis des Statutarrechts zur Policeygesetzgebung zwischen spätem Mittelalter und Früher Neuzeit in mitteleuropäischen Reichs- und Landstädten,” in *Von der Ordnung zur Norm: Statuten in Mittelalter und Früher Neuzeit*, ed. Gisela Drossbach (Paderborn – München – Wien – Zürich: Ferdinand Schöningh, 2010).

Sporadic references were made to other legal orders such as Roman law, natural law, law of nations, divine law, and canon law.

During the second research period, the same justificatory arguments continued to feature in the preambles of police ordinances. Political arguments such as 'the benefit of the realm and its inhabitants' and 'common good' were still used as reasons for issuing royal ordinances. Moreover, the concept of 'police' was still used to denote the abstract order in society. However, the term 'police' also received a more specific meaning in seventeenth-century ordinances. It was increasingly used to refer to an independent and carefully demarcated field of town administration which included, among other things, such matters of public security as blasphemy, luxury, drunkenness and gambling, begging and poor relief, fire safety, and the night watch. This definition of police matters already anticipated the development towards today's more narrow definition of the concept of police. In regard to religious argumentation, the fear of God's wrath still appeared in ordinances. However, religious argumentation partly changed its tone since God was also thanked for various natural resources that he had 'blessed' the country with. It fell upon the rulers to see that these natural resources were put to good use. However, the emergence of economic argumentation in the preambles was the most significant change in comparison to the first research period. In this respect, the argument used most often was 'the flux of commerce'. Indeed, the increase in international trade, the birth of manufacturing industry and development of the mining industry all emphasised the importance of the uninterrupted flux of commerce. Commerce and trades were also seen as the source of the 'strength of the realm'; an argument which at times also appeared in preambles, attesting to a subtle emergence of *ratio status* thinking in Sweden. The ideological argumentation assumed in early modern Swedish police ordinances corresponded largely to the argumentation in contemporary German police ordinances.³

The third research question dealt with the 'logic' of police ordinances, i.e., what gave stimulus to the issue of individual ordinances, to whom were ordinances addressed, to what extent did police ordinances on the same subject matter recur, and did police ordinances include direct references to the medieval law codes? In regard to the impetus for issuing police ordinances in the sixteenth-century, the preambles to the ordi-

³ Michael Stolleis, *Staat und Staatsräson in der frühen Neuzeit: Studien zur Geschichte des öffentlichen Rechts* (Frankfurt am Main: Suhrkamp, 1990), 185.

nances revealed that the thrust for issuing an ordinance often came from the subjects themselves. Societal problems were brought to rulers' attention through petitions or delegations, which, in turn, resulted in the issue of an ordinance. Consequently, sixteenth-century police ordinances should by no means be regarded as regulation *von oben* but rather as communication between rulers and their subjects. This image emerging from the Swedish material dovetails well with the conception of early modern police that has recently been presented in German research literature.⁴

Secondly, police ordinances were, of course, primarily addressed to the people. However, many sixteenth-century ordinances also included explicit orders to the king's authorities at local level. This was explained by the fact that the administrative system was fairly undeveloped and local authorities were still reasonably independent during the sixteenth century and they needed constant reminders of their tasks. Thirdly, police ordinances on the same subject matter were given time and again during the sixteenth century. The recurrence of ordinances was explained by numerous reasons. Ordinances were repeatedly issued not only because of the 'enforcement deficit' caused by inefficient execution machinery. In addition, ordinances on the same police matters were also given because newly enthroned rulers wished to legitimize their *Herrschaft* and also because minor alterations and adjustments needed to be made to previous ordinances. Fourthly, it was asked to what extent royal police ordinances explicitly referred to the medieval law codes, i.e., the 1442 Law of the Land and the 1350s Town Law. As police ordinances to a large degree regulated the same issues as the medieval law codes, it was natural that they also included references to the latter. However, these references were of a general kind merely stating 'as it says in the Law of Sweden'. This led to the assumption that due to its customary nature, the law was widely known among the subjects and no exact references were needed.

As to the impetus for issuing police ordinances, no notable change took place during the second research period. To a large extent, the impetus for issuing ordinances still continued to come from subjects, as in the case of manufacturing privileges, for instance. Furthermore, police ordinances were still addressed to a wider public, also including orders to the royal authorities. However, orders for royal authorities and officials included in general ordinances started to decrease in the course of the seventeenth century. As the state administrative apparatus grew bigger and more

⁴ See e.g. Iseli, "Bonne Police", 312–315, 337–340; Härter, *Policey*, 5–12, 1153–1158.

complex, it no longer sufficed that administrative orders were incorporated in general ordinances. Towards the end of the seventeenth century, the empirical material of this study started to include more and more individual administrative orders addressed to different authorities. As noted, these orders were not included in this study because of their character as internal administrative orders and not as police ordinances addressed to the public.

More importantly, another remarkable change concerning the logic of ordinances did take place in the seventeenth century. In comparison to ordinances of the previous century, seventeenth-century police ordinances manifested *a novel kind of awareness of making new law*. The need to change old customary law and previous police ordinances was explicitly expressed in the preambles to numerous ordinances. The 'outmodedness of old provisions', 'the passing of time' and 'changes in societal life' were all used as arguments for giving new police ordinances. These arguments were connected to the more general ideological argument of promoting the common good, i.e., *utilitas publica*. Police ordinances were now increasingly thought of as a proactive means of pursuing aspired-to societal goals. The change in terminology also attests to this claim. In the seventeenth-century, ordinances explicitly spoke of 'intentions' of rulers as a cause for their issue. In addition, the term 'effects' also appeared in ordinances, testifying to the fact that rulers were monitoring the impact of previously given ordinances more actively than before. In sum, police ordinances were no longer conceived of as mere execution of medieval law but instead of giving new law. Seventeenth-century Swedish royal police ordinances thus started to express the idea of a 'voluntaristic understanding of legal norms' (*voluntaristisches Gesetzesverständnis*). Law was seen not just a means of adapting to the changes of time but also a means of proactively steering and changing society.

It has previously been argued, for instance, by Bo H. Lindberg that the Swedish legal system in the early modern period should not be conceived of as an instrument of realizing politically set aims. The early modern legal system was not yet a system of 'social engineering' through which society could be actively transformed. According to Lindberg, it was seen more like a 'moral-religious based order' that defined and gave legitimacy to the whole societal system.⁵ Lindberg's claim is primarily based on an analysis of early modern criminal law and early modern politico-legal literature.

⁵ Lindberg, *Praemia et Poena*, 269.

Indeed, in light of this type of source material Lindberg's claim can be considered plausible. After all, Mosaic Law was given the status of valid and directly applicable law in Sweden as late as 1608. Moreover, Carl-Johan Gadd has argued that although an awareness of changing society through legislation reached the central authorities during the sixteenth and seventeenth centuries, contemporary legislation – at least economic legislation – shows almost no signs of this type of new thinking. According to Gadd, the quality of legislation changed only at the beginning of the nineteenth century. At that time, legislation in Sweden became more detailed and extensive due to new methods of gathering information at the local level.⁶

However, the problem with both Lindberg's and Gadd's analyses is their limited source material. One cannot obtain a comprehensive picture of the early modern legal system and legislation merely by analyzing criminal law (Lindberg) or ordinances on trades in the countryside (Gadd). As Reiner Schulze has argued, in order to understand legislative action and theory in the early modern period one must widen the scope of scrutiny also to cover the whole body of police ordinances.⁷ When this is done – as has been the aim of this study – a conception of early modern legislation as social engineering no longer seems such a remote idea. In fact, it has been shown above how during the seventeenth century police ordinances

⁶ Carl-Johan Gadd, "Varför är äldre näringslagstiftning så oklar? Kring ekonomisk lagstiftning, lagefterlevnad och sedvana, ca. 1680–1850," in *Historia: Vänbok till Christer Winberg*, ed. Lennart Andersson Palm and Maria Sjöberg (Göteborg: Historiska institutionen, Göteborgs universitet, 2007), 96–100. However, Gadd's analysis is highly problematic. Gadd uses, at least to a certain extent, the nineteenth-century ideals of a legal system and good legislation as yardsticks for evaluating the legislation of the two preceding centuries. Gadd seems to claim that seventeenth- and eighteenth-century legislation was "scarce, contradictory and imprecise" because there was not enough information about the realities in the realm. He continues that seventeenth- and eighteenth-century legislation was thus more or less intentionally left scarce and general in order for the central authorities to take into consideration local conditions when implementing the law. Only when the information gathering system improved, did it become possible to issue detailed laws. It is improbable, however, that seventeenth- and eighteenth century legislators would have intentionally drafted ordinances and decrees contradictorily and imprecisely. The reason for the 'undeveloped' nature of contemporary legislation was simply the fact that nineteenth-century ideals of a consistent and gapless legal system had not yet emerged in Sweden. This critique does not, however, refute the central claim of this study, i.e., that a voluntaristic understanding of law starts to manifest itself in seventeenth-century Swedish police ordinances. A voluntaristic understanding of law does not require a systematic understanding of law. According to Lars Björne, eighteenth-century legal scholars in the Nordic countries paid only sporadic attention to questions of legal systematics. See Björne, *Patrioter och Institutionister*, 246.

⁷ Schulze, *Policey und Gesetzgebungslehre*, 21–22.

were given in order to promote various pre-industrial, economic and fiscal ends. Police ordinances were no longer – as was the case in the previous century – primarily a means to enforce medieval provisions of the Law of the Land or the Town Law. Instead, police ordinances were now issued in order to tackle wholly new kinds of challenges posed by developments in Swedish commercial, industrial and societal life.

By claiming that a new, voluntaristic understanding of law emerged in Sweden in the seventeenth century I do not mean to say that the political dimension would have been absent in medieval Swedish law or sixteenth-century police ordinances. Quite the contrary, it has been rightly argued, for instance, by Elsa Sjöholm and Gabriela Bjarne Larsson that Swedish medieval statutes and law codes should be considered as products of their own time and that they do not bear witness to the societal order of some age-old and once forgotten ‘Germanic’ society. Instead, medieval law attests to changing power relations between the Crown, the nobility, the Church and the common people. According to Sjöholm and Bjarne Larsson, what seem to have been the focal point of medieval law are exactly power relations between the different actors; either the existing or new emerging power constellations are given legitimacy through law.⁸ However, in seventeenth-century police ordinances the question is no longer solely about legitimizing power but also about changing society and strengthening the Swedish realm. As has been shown, issuing police ordinances is now based on more or less carefully planned ‘intentions’ and aspired-to ‘effects’.

This voluntaristic understanding of law also appeared and was further strengthened in eighteenth-century Swedish treatises on police science. Not only was legislation seen as a product of the *voluntas* of the lawgiver, but a distinct scientific discipline was to be harnessed to help the lawgiver in the task of giving new laws and steering society. This was a view held by both Christian König and Anders Berch, two eighteenth-century authors of Swedish works on police science. As König put it, police science was “a concern of the legislative authority”.⁹ Both König and Berch founded their thought on continental examples such as the Frenchman Nicolas Delamare, and the Germans Veit Ludwig von Seckendorff and Justus Dithmar. Paradoxically, the scientification of police also entailed the end

⁸ Sjöholm, *Sveriges medeltidslagar*, 21–25; Bjarne Larsson, *Stadgelagstiftning i senmedeltidens Sverige*, 1–31.

⁹ König, *Almänna Hushållningen*, introduction, 1–4.

of the broad concept of police, i.e., police also covering economic life and public finances. Police science, *sensu stricto*, was soon distinguished from economics and cameral science and its scope became limited to matters concerning public order and security – in much the same way as the term police still today refers to a special state authority responsible for maintenance of public order and security.

The sixteenth and seventeenth-century Swedish experience confirms the claim that has already been presented numerous times in previous studies on early modern police, namely, that the expansion of police legislation was tightly interwoven with the emergence of the modern state. The two phenomena were in close interaction with each other. On the one hand, legislative action in the modern sense was only possible when there was a lawgiver that ruled, at least in principle, the people of a certain limited territory. On the other hand, legislation was the pivotal means of erecting an administrative apparatus and claiming the *Herrschaft* of that very territory. As Micheal Stolleis has put it, legislation, especially police ordinances, was both the prerequisite for and the consequence of the emergence of modern states in early modern Europe.¹⁰

Through police ordinances the state strove to control morality, trades, commerce, taxation, public security and society at large. Police ordinances were also the means of establishing new administrative bodies, defining their tasks and controlling them, as the seventeenth-century ordinances show. The regulation of administration through police ordinances did not yet constitute administrative law in the modern sense, of course, but it nevertheless served as a starting point for it.¹¹ But more importantly, at least in regard to this particular study, along with the seventeenth-century royal police legislation a voluntaristic understanding of law emerged in Sweden. This is an understanding of law that undoubtedly still dominates the legal thinking of today.

¹⁰ Stolleis, *Staat und Staatsräson*, 178–188.

¹¹ Stolleis, *Geschichte*, 334–335; Härter, “Verwaltung,” 265–269.

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INDEX OF NAMES AND SUBJECTS

- Aristotle; Aristotelian 2, 21–22, 28, 72, 169, 189, 195
- Bachmanson, Anders 197–198
- Berch, Anders 199, 204–208, 218
- Brahe, Per 194–197
- Bureus, Johannes 27
- cameralism; cameral science 189, 197, 199, 204–205, 207–208, 219
- canon law 21, 29, 78, 92, 164–167, 214
- conceptions of kingship/rulership 21–24, 71–74, 90, 209
- common good 24, 45, 75, 81, 147, 156–157, 167–169, 178, 180–181, 185, 200, 209, 214, 216
bonum commune 21
gemeiner Nutzen 81
utilitas publica 21, 178, 180, 186, 209, 216
- de Commynes, Philippe 31–32
- Davenant, Charles 198, 202n59
- Decalogue 51, 77, 102, 164, 193
- Delamare, Nicolas 199–207, 218
- Dithmar, Justus Christoph 12n41, 205–207, 218
- divine law (the Bible) 78, 92, 164, 178–180, 214
- Erasmus of Rotterdam 29–30, 33, 209
- Erik XIV 41, 46, 53, 66–67, 73–74, 86
- Fredrik I 8
- Giles of Rome (Aegidius Romanus) 21–22, 26, 28, 33, 209
- Gothus, Johannes 119
- Great Power Era 39, 95–96, 98
- Gustav II Adolf 84, 95, 97, 104, 117, 120, 124, 130, 146–148, 151, 162, 170, 176–177
- Gustav Vasa 29, 35–39, 41–43, 46, 50, 53, 56, 60–62, 65, 67–69, 72–73, 75–76, 78–79, 82, 84, 86, 88, 98, 113, 194
- 'householding' (*hushållning*) 10, 13, 197, 199, 201, 204n73, 204–205, 208
- Johan III 37, 45–46, 52, 56, 64, 66–67, 73–74, 78, 86
- von Justi, J. H. G. 189
- Karl IX (Duke Karl) 16, 31, 37, 41–42, 48, 51–52, 54, 63, 66, 69–70, 73–74, 77, 86
- Karl X Gustav 114, 117, 150, 154, 156, 161
- Karl XI 16, 96, 102, 106, 110, 113–116, 119, 121, 125–127, 132–133, 139–140, 142, 144, 147, 154, 163–164, 173–174, 177, 180
- Karl XII 96, 126, 144, 149, 165
- Kristian II 36
- Kristina 101, 105, 108, 110, 122, 128–129, 133–134, 146, 152–153, 160, 162, 168, 173–174, 179, 181–182
- König, Christian 199, 201–204, 206–207, 218
- Konungastyrelsen* 26–28, 32–33, 176, 191
- Laurentius Petri 37, 42, 192–194, 197
- law of nations 78, 92, 180, 214
- Law of Sweden (*Sveriges lag*) 75, 88–90, 157, 164, 169, 183, 215
- Law of the Land
 King Kristoffer's (1442) 11, 28, 48, 50–51, 53–54, 60, 67–69, 87–88, 91–92, 132, 134, 177–178, 185, 210, 212, 215, 218
 King Magnus Eriksson's (1350s) 28, 87–88
- legislative doctrine/theory
 (*Gesetzgebungslehre/-theori*) 12, 19, 21, 26, 28, 32–33
- liberalism (economic and/or political)
 7–8, 25, 148, 190
- Luther, Martin 37, 78, 192–193
- Lutheran
 Church 37, 41
 pedagogy 130–131
 political theory 36, 73, 75, 77, 131, 193
- Magnus Birgersson 35
- Magnus Eriksson 87, 89
- Machiavelli, Niccolò 31, 33, 160
- Månsson, Peder (Petrus Magni) 29–30, 32–33, 176, 191–192
- de Mayerne Turquet, Louis 25
- Menius, Justus 193
- mercantilism 109, 170–172, 180, 197
- natural law 9, 22, 25, 92, 114, 118, 164–165, 178, 180, 214

- oeconomia* (private household) 192–196
 Olaus Petri 37, 78, 192
 Oxenstierna, Axel 97, 141
- police
 concept of 1–3, 24–25, 74, 103, 157–159,
 185–186, 189–190, 195, 198, 200–201,
 209, 213–214
 material scope of 3, 11, 14–19, 158,
 189–190, 200–201, 203, 206, 210, 214
 and *Rechtsstaat* 6–7, 10, 190, 208
 and the estate society
 (*Ständegesellschaft*) 7–8, 109
 police authorities
 bailiffs (*fogdar*) 38–39, 43–44, 53, 55,
 57, 60, 64, 66, 69, 77, 83–84, 97–98,
 111, 136
 in general 1–2, 5, 7, 12
 police burgomaster 103–104, 158
 sheriffs (*länsmän, ordningsmän*) 69,
 83, 122
 police legislation (*Policeygesetzgebung*)
 4–9, 11, 19, 85, 91, 207, 209, 212–213, 219
 and criminal law 50, 216–217
 and ecclesiastical law 15, 206
 and military law 15
 and private law 15, 166–167
 police ordinances (objects of regulation)
 administration and judiciary 53–55,
 103–104, 120–124, 157–158, 177–178
 agriculture 59–60, 132–133
 banks and credit system 149–150, 164
 censorship and printing 118–119, 163
 criminality 49–52, 115–118
 cultural heritage 131
 customs duties and excises 65–66, 86,
 89, 145–146, 159–160, 168, 174, 179, 181
 drunkenness 49, 114–115, 136
 duels 117, 163
 educational system 58–59, 76, 130–131,
 158
 emigration and immigration 43, 104
 export 65, 72, 86
 fire safety 70, 154
 fishing 60, 133
 forestry 61, 134–135
 gambling 114–115
 guardianship 48, 112, 158, 177
 guilds 8, 62, 127, 136, 139, 141–142, 148,
 168
 gypsies 106–107
 handicrafts and trades 62–63, 141–143
 hunting 60, 134
 inns and taverns 66–67, 89, 114–145
 Jews 106–107
 luxury 44–46, 75, 108–110, 161
 mail 69, 152–153
 manufactories 137–140, 155–156,
 170–171, 174, 179–180
 mining 61, 136–137, 157, 162, 183
 monetary system 67–68, 86, 148–149
 poor relief 57–58, 127–130, 158
 price control 64–65, 74, 76, 144
 public construction 70, 154
 public health 56–57, 124–127, 158
 religious orthodoxy 41–42, 100–102,
 104, 161
 resettlement 43, 104–105
 roads and transportation 68–69, 152
 sanitation 70–71, 154–155
 sexual behaviour 46–47, 110–111
 succession 48, 112–114
 Tartars 106–107
 taxation 105
 trading companies 8, 146–148, 156, 168,
 171–173
 trading rights 63–64, 79, 143–144, 156,
 168, 182
 vagrancy 43–44, 105–108
 water ways and water works 68,
 151–152
 work regulation 62, 140
 police science (*Policeywissenschaft*) 4,
 158, 189–191, 199–208
 police state (*Polizeistaat*) 5–6, 82
 privileges
 concept of 179–180
 guild privileges 62–63, 127
 manufacturing 137–139, 156–157,
 170–171, 174, 175, 179–181, 182, 188–189,
 212, 215
 mining 61, 136, 157
 of banks 150, 185–186, 212
 of different authorities 123, 127
 of clergy 101–102
 of various trades 126–127, 133, 137, 139,
 151, 153, 156, 162, 182
 town privileges 38, 42–43, 102, 103n28,
 112–113, 121, 179, 182
 trading privileges 64, 79, 123, 146–147,
 156, 168, 172–173, 185–186, 198, 212
 Pufendorf, Samuel 9
 von Pyhy, Conrad 38
- ratio status* (*Staatsräson, raison d'etat*) 23,
 159–161, 186, 214
 Reformation (in Sweden) 36–37, 41–42,
 46–48, 91, 113, 192, 210

- Roman law 21, 72, 78, 92, 110, 114, 164–166, 214
- Rosenhane, Shering 196–197
- Schmedeman, Johan 13
- von Seckendorff, Veit Ludwig 24, 202n57, 205, 218
- de Seyssel, Claude 25
- Sigismund 37
- Skytte, Johan 31–33, 176
- Starkey, Thomas 2
- von Stiernman, Anders Anton 12–13, 176
- Town Law of Magnus Eriksson (1350s) 11, 87–89, 91–92, 103, 177–178, 183, 185, 210, 212, 215, 218
- voluntaristic understanding of law 9, 22, 90, 184, 187, 203, 216, 217n6, 218–219